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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

(Pursuant to a resolution of the House of Representatives, of the 22d ult.)

The Correspondence

BETWEEN THE

Government of the United States and Great Britain,

RELATING TO THE

NEGOTIATION OF THE CONVENTION

OF THE 20th OCTOBER, 1818.

FEBRUARY 15, 1823.

Read, and ordered to lie upon the table.

WASHINGTON:

PRINTED BY GALES & SEATON.

1823.

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To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives, 22d of January last, requesting a communication to the House of all the correspondence between the Government of the United States and Great Britain, relating to the negotiation of the convention of the 20th of October, 1818, which may not be inconsistent with the public interest, I transmit, herewith, to the House, a report from the Secretary of State, together with the papers requested by the resolution of the House.

JAMES MONROE.

Washington, 13*th February*, 1823.

DEPARTMENT OF STATE,
Washington, 18th February, 1823.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the United States, of the 22d of January last, requesting the communication to the House of "all the "correspondence between the Government of the United States and "Great Britain, relating to the negotiation of the convention entered "into between the two Governments, on the 20th of October, 1818, "which may not be inconsistent with the public interest," has the honor of submitting to the President of the United States the papers required by the said resolution.

JOHN QUINCY ADAMS.

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DEPARTMENT OF STATE,

July 18, 1815.

SIR: I have the honor to communicate to you a copy of a letter from the Collector of the Customs at Barnstable, to the Secretary of the Treasury, by which it appears that an American vessel, engaged in the cod fishery, in long. 65 20, lat. 42 41, was warned off, by the commander of the British sloop of war Jaseur, and ordered not to approach within 60 miles of the coast; with which order, the commander of the American vessel immediately complied. It appears, also, that a similar warning had been given by the commander of the Jaseur to all the other American vessels that were then in sight.

This extraordinary measure has excited no small degree of surprize. Being altogether incompatible with the rights of the United States, it is presumed that it has not been authorized by your government. I invite your attention to it, in the hope, that, as you have been charged by your government with the execution of the late treaty of peace, and are acquainted with its views on all questions connected with it, you will consider yourself authorized to interpose to prevent the progress of an evil which will be so extensively and deeply felt by the citizens of the United States.

I have the honor, &c. &c.

JAMES MONROE.

ANTHONY ST. JOHN BAKER, Esq.
&c. &c. &c.

Collector of Customs at Barnstable, to the Secretary of the Treasury.

COLLECTOR'S OFFICE, *Barnstable, July* 3, 1815.

SIR: I think it my duty to inform you, that the captain of a vessel regularly licensed for the cod fishery, has just reported to this office, that on the 19th day of June last, being in long. 65 20, N lat. 42 41, about 45 miles distant from Cape Sables, he fell in with his Britannic Majesty's sloop of war Jaseur, N. Lock, commander, who warned him off, and endorsed his enrolment and license in the words following:

"Warned off the coast by his Majesty's sloop Jaseur, not to come within sixty miles.

N. LOCK, *Captain.*

June 19th, 1815."

In consequence of which, the fisherman immediately left the fishing ground, and returned home without completing his fare.

The captain of the fisherman further states, that all the fishing vessels then in sight were warned off in the same manner, by the said captain Lock.

I am, Sir, very respectfully,
Your obedient servant,
ISAIAH L. GREEN,
Collector.

Hon. A. J. DALLAS, Esq.

Mr. Baker to Mr. Monroe.

PHILADELPHIA, *August* 31, 1815.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th ultimo, together with its enclosure, relating to the warning off, to the distance of 60 miles from the coast of Nova Scotia, of some American fishing vessels, by His Majesty's brig Jaseur.

This measure was, as you have justly presumed in your note, totally unauthorized by His Majesty's Government, and I have the satisfaction to acquaint you, that orders have been given by the Naval Commanders in Chief on the Halifax and Newfoundland Stations, which will effectually prevent the re-currence of any similar interruption to the vessels belonging to the United States engaged in fishing on the high seas.

I have the honour to be, with the greatest consideration, and respect, sir, your most obedient, humble servant,

ANTHONY ST. J. BAKER.

Hon. JAMES MONROE,
&c. &c. &c.

Extract of a letter from Mr. Monroe, Secretary of State, to Mr. Adams.

July 21*st*, 1815.

"Among the acts which we have to complain of with greatest earnestness, is a late warning given by the Commander of a British sloop of War to our fishermen, near the coast of the British northern colonies, to retire thence to the distance of 20 leagues. This, it is presumed, has been done under a construction of the late treaty of peace, which, by being silent on the subject, left that important interest to rest on the ground on which it was placed by the treaty of

1783. The right to the fisheries required no new stipulation to support it. It was sufficiently secured by the treaty of 1783. This important subject will claim your early attention. The measure thus promptly taken by the British Government, without any communication with this Government, notwithstanding the declaration of our Ministers at Ghent, that our right would not be affected by the silence of the treaty, indicates a spirit which excites equal surprise and regret; one which by no means corresponds with the amicable relations established between the two countries by that treaty, or with the spirit with which it has been executed by the United States..

As you are well acquainted with the solidity of our right to the fisheries in question, as well as to those on the Grand Bank, and elsewhere on the main ocean, to the limit of a marine league only from the coast, (for the pretension to remove us 20 leagues is too absurd to be discussed,) I shall not dilate on it, especially at this time. It is sufficient to observe here, that the right of the United States to take fish on the coast of Newfoundland, and on the coasts, bays, and creeks, of all other His Britannic Majesty's dominions in America, and to dry and cure fish in any of the unsettled bays, harbors, and creeks, of Nova Scotia, Magdalen Islands, and Labrador, in short, that every right appertaining to the fisheries which was secured by the treaty of 1783, stands now as unshaken and perfect as it then did, constituting a vital part of our political existence, and resting on the same solid foundation as our Independence itself. In the act of dismemberment and partition, the rights of each party were distinctly defined. So much of territory and incidental rights were allotted to one—so much to the other; and as well might it be said, because our boundary had not been retraced in the late treaty, in every part, that certain portions of our territory had reverted to England, as that our right to fish, by whatever name secured, had experienced that fate. A liberty of unlimited duration, thus secured, is as much a right, as if it had been stipulated by any other term. Being to be enjoyed by one, adjoining the territory allotted by the partition to the other party, it seemed to be the appropriate term. I have made these remarks to shew the solid ground on which this right is deemed to rest by this government, relying on your thorough knowledge of the subject to illustrate and support it in the most suitable manner.

It can scarcely be presumed, that the British Government, after the result of the late experiment, in the present state of Europe, and under its other engagements, can seriously contemplate a renewal of hostilities. But it often happens with nations, as well as with individuals, that a just estimate of its interest, and duties, is not an infallible criterion of its conduct. We ought to be prepared at every point to guard against such an event. You will be attentive to circumstances, and give us timely notice of any danger which may be menaced.

Extract of a letter from Mr. Adams to Mr. Monroe.

LONDON, *15th August*, 1815.

"I had mentioned the subject of the slaves in my first interview with him, (Lord Castlereagh,) and he had then expressed an intention to refer it to the Commissioners, with whom we were then negotiating the commercial convention. But they received no instructions relative to it, and considered their powers as limited to the objects upon which my colleagues were authorized, conjointly with me, to treat. The day before Lord Castlereagh left town, I spoke to him again concerning it. He had just received despatches from Mr. Baker relating to it, but had not had time to read them, and merely told me that, during his absence, Lord Liverpool, or Lord Bathurst, would attend to the business of his Department. After writing the note, of which the copy is enclosed, I requested an interview with Lord Liverpool, for which he appointed last Saturday, but an accident prevented me from then meeting him. I have renewed the request, but as he was not in town, when my note was sent, it may be deferred until after Mr. Bagot's departure."

Extract of a letter from Mr. Adams to Lord Castlereagh.

Charles Street, Westminster, 9th August, 1815.

"In two several conferences with your Lordship, I have had the honor of mentioning the refusal of his Majesty's naval commanders, who, at the restoration of peace between the United States and Great Britain, were stationed on the American coast, to restore the slaves taken by them from their owners in the United States during the war, and then in their possession, notwithstanding the stipulation in the first article of the treaty of Ghent, that such slaves should not be carried away. Presuming that you are in possession of the correspondence on this subject, which has passed between the Secretary of State of the United States, and Mr. Baker, it will be unnecessary for me to repeat the demonstration, that the carrying away of these slaves is incompatible with the terms of the treaty. But, as a reference to the documents of the negotiation at Ghent may serve to elucidate the intentions of the contracting parties, I am induced to present them to your consideration, in the hope, that the Minister of his Majesty, now about to depart for the United States, may be authorized to direct the restitution of the slaves, conformably to the treaty, or to provide for the payment of the value of those carried away contrary to that stipulation; which, in the event of their not being restored, I am instructed by my government to claim. The first projet of the treaty of Ghent was offered by the American plenipotentiaries, and that part of the first article relating to slaves, was therein expressed in the following manner: "All territory,

places, and possessions, without exception, taken by either party from the other, during the war, or which may be taken after the signing of this treaty, shall be restored without delay, and without causing any destruction, or carrying away any artillery, or other public property, or any slaves, or other private property."

The projet was returned by the British plenipotentiaries, with the proposal of several alterations, and, among the rest, in this part of the first article, which they proposed should be so changed as to read thus—

"All territory, places, and possessions, without exception, belonging to either party, and taken by the other, during the war, or which may be taken after the signing of this treaty, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery, or other public property, or any slaves, or other private property, originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty."

It will be observed that, in this proposal, the words "originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty," operated as a modification of the article as originally proposed in the American projet. Instead of stipulating that no property, public or private, artillery, or slaves, should be carried away, they limited the prohibition of removal to all such property as had been originally captured in the forts and places, and should remain there at the exchange of the ratifications. They included within the limitation, private as well as public property; and had the article been assented to in this form by the American plenipotentiaries, and ratified by their government, it would have warranted the construction which the British commanders have given to the article as it was ultimately agreed to, and which it cannot admit.

For, by reference to the protocol of conference held on the 1st of December, 1814, there will be found among the alterations to the amended projet, proposed by the American plenipotentiaries, the following:

"Transpose alteration consisting of the words '*originally captured in the said forts or places, and which shall remain therein, upon the exchange of the ratifications of this treaty, after* the words public property,' agreed to by the British plenipotentiaries."

It thus appears, that the American plenipotentiaries admitted, with regard to artillery and public property, the limitation which was proposed by the British amended projet, but that they did not assent to it with regard to slaves and private property; that, on the contrary, they asked such a transposition of the words of limitation, as would leave them applicable only to artillery and public property, and would except slaves and private property from their operation altogether. That the British plenipotentiaries and government, by this proposed transposition of the words, had full notice of the views of the other contracting party, in adhering to the generality of the prohibition, to carry away slaves and private property, while acquiescing in a li-

mitation with respect to artillery and public property. With this notice, the British government agreed to the transposition of the words, and, accordingly that part of the article, as ratified by both governments, now stands thus:—

"All territory, places, and possessions whatsoever, taken by either party, from the other, during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery, or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves, or other private property."

From this review of the stipulation, as originally proposed at the negotiation of Ghent, as subsequently modified by the proposals of the respective plenipotentiaries, and as finally agreed to by both the contracting parties, I trust it will remain evident that, in evacuating all places within the jurisdiction of the United States, and in departing from their waters, the British commanders were bound not to carry away any slaves, or other private property of the citizens of the United States, which had been taken upon their shores. Had the construction of the article itself been, in any degree, equivocal, this statement of the manner in which it was drawn up, would have sufficed to solve every doubt of its meaning. It would also shew, that the British plenipotentiaries were not unaware of its purport as understood by those of the United States."

EXTRACT.

Mr. Adams to Mr. Monroe.

LONDON, *5th September*, 1815.

"In compliance with your instructions of 21st July, I have this day addressed Lord Castlereagh, claiming payment from the British government for the slaves carried away from Cumberland Island, and the adjoining waters, after the ratification of the treaty of peace, and in contravention to one of the express stipulations of that treaty.

"My preceding despatches, Nos. 9 and 10, will have informed you of the steps I had taken, by an official letter to Lord Castlereagh, and by a personal interview with the Earl of Liverpool, in relation to this subject, previous to the receipt of your last instructions. The letter to Lord Castlereagh has, hitherto, remained unanswered; and Lord Liverpool made no attempt to answer either the reasoning of your letter on the subject to Mr. Baker, or the statement of the proof, with regard to the meaning of the article, resulting from the manner in which it had been drawn up and agreed to. The substance of what he said, was, that, in agreeing to the article as it stands, they had not been aware that it would bind them to restore the slaves, whom their officers had enticed away, by promises of freedom.

"The case of these slaves carried away from Cumberland, seems not even to admit of the distinction to which Mr. Baker and Lord Liverpool resorted. Yet the prospect of obtaining either restoration or indemnity, appears to me not more favorable in this case than in any others of the same class. If there were any probability that this government would admit the principle of making indemnity, it would become necessary for me to remark, that the list of slaves transmitted to me, and of which I have sent to Lord Castlereagh a copy, is not an authenticated document."

Mr. Adams to Lord Castlereagh.

Charles street, Westminster, 5th September, 1815.

My Lord: In the letter which I had the honor of addressing to your Lordship, on the 9th of August last, I stated that I had been instructed by my government to claim the payment of the value of the slaves carried away from the United States, by the British naval commanders stationed on the American coast, notwithstanding the express stipulation to the contrary in the first article of the treaty of Ghent, in the event that such slaves should not be restored to their owners.

The enclosed is a copy of a list of seven hundred and two slaves, taken in the state of Georgia, by the forces under the command of Rear Admiral Cockburn, and carried away, after the ratification of the treaty of peace, from Cumberland Island, or the waters adjacent to the same, which has been transmitted to me by the Secretary of State of the United States, with a new instruction to claim the indemnity, justly due to the owners, to the full value of each slave. Should his Majesty's government now prefer to restore the slaves, who must yet be in their possession, or that of their officers, it is presumed to be still practicable; but their removal having been in contravention to the express stipulation of the treaty, it is to the faith of Great Britain, pledged by that stipulation, that the United States can alone recur for indemnification to the owners for the loss of their property, if the slaves are not restored.

If it should be deemed expedient rather to make this compensation than to restore the slaves to their owners, I am authorized to enter into such arrangements as may be proper for ascertaining the amount of the indemnity to be made, and settling the manner in which it may be allowed.

I have the honor to be, with the highest consideration,

Your Lordship's very humble and obedient servant,

JOHN QUINCY ADAMS.

Extract of a letter from Mr. Adams to Mr. Monroe, stating the substance of a conversation with Lord Bathurst.

London, 19*th September*, 1815.

"The transactions to which your instructions, of 21st July, have reference, were of a character to excite, in the highest degree, the attention of

the government of the United States. So many simultaneous acts of British officers, at various stations, and upon both elements, indicating a marked spirit of hostility, were calculated to inspire serious doubts with regard to the pacific, not to say the amicable dispositions of the British government; and the latter part of your despatch made it incumbent upon me, under certain contingencies, to take measures of which nothing that had occurred here had induced me even to think, as precautions which the course of events might render expedient, The commercial convention had shewn how excessively difficult it was for British and American plenipotentiaries to agree upon any one point, in which the mutual interests of the two countries were involved. It had shewn how very few points there were upon which any agreement could be made, and it was evident, from every thing excepting the personal courtesies of the Prince and his cabinet, that the animosities of the condition from which the two nations had lately emerged, had very little subsided. I had, however, before the receipt of your despatch, not a suspicion that an immediate renewal of hostilities was contemplated; and even now, although I perceive no reason for flattering myself that any satisfaction will be given us, upon any one of our causes of complaint, yet I do not apprehend that any act of open and avowed hostility will be sanctioned by the British government, at the present moment. It must, however, be added, that the most, perhaps the only unequivocal pledge of pacific intentions, is the reduction of the fleet, not only to a peace establishment, but to an unusually small one. Your despatch, and the several procedures to which it related, awakened an anxiety that nothing should be omitted which could be of any possible utility to our interests in this quarter.

Having formally renewed the claim for the restitution of the slaves carried away contrary to the engagements of the treaty of peace, or for payment of their value as the alternative, there were other objects which I deemed it necessary to present again to the consideration of this government. In the first instance it seemed advisable to open them by a verbal communication, and I requested of Lord Bathurst an interview, for which he appointed the 14th instant, when I called at his office in Downing street. I said that, having lately received despatches from you, respecting several objects of some importance to the relations between the two countries, my first object, in asking to see him, had been, to inquire whether he had received from Mr. Baker a communication of the correspondence between you and him, relative to the surrender of Michillimakinac; to the proceedings of Colonel Nichols in the southern part of the United States; and to the warning given by the captain of the British armed vessel Jaseur, to certain American fishing vessels, to withdraw from the fishing grounds to the distance of sixty miles from the coast. He answered, that he had received all these papers from Mr. Baker, about four days ago; that an answer with regard to the warning of the fishing vessels had immediately been sent; but, on the other subjects, there had not been time to examine the papers and prepare the answers. I asked him if he could, without inconvenience, state the substance of the answer that had been sent. He said, certainly. It had been, that, as on the one hand Great Britain could not permit the vessels of the United States to fish within the creeks, and close upon the shores, of the British territories, so, on the other hand, it was by no means her intention to interrupt them in fishing any where in the open sea, or without the territorial jurisdiction, a marine league from the shore. And, therefore, that the warning given at the place stated, in the case referred to, was altogether unauthorized. I replied, that the particular act of the Bri-

tish commander, in this instance, being disavowed, I trusted that the British government, before adopting any final determination upon the subject, would estimate, in candor, and in that spirit of amity which my own government was anxiously desirous of maintaining, in our relations with this country, the considerations which I was instructed to present in support of the right of the people of the United States to fish on the whole coast of North America, which they have uniformly enjoyed from the first settlement of the country: that it was my intention to address, in the course of a few days, a letter to him on the subject. He said that they would give due attention to the letter that I should send him, but that Great Britain had explicitly manifested her intention concerning it: that this subject, as I doubtless knew, had excited a great deal of feeling in this country, perhaps much more than its importance deserved; but their own fishermen considered it as an excessive hardship to be supplanted by American fishermen, even upon the very shores of the British dominions. I said, that those whose sensibilities had been thus excited, had probably not considered the question of right in the point of view in which it had been regarded by us: that they were the sensibilities of a partial and individual interest, stimulated by the passions of competition, and considering the right of the Americans as if it had been a privilege granted to them by the British government. If this interest was to have weight in determining the policy of the cabinet, there was another interest liable to be affected in the opposite manner, which would be entitled equally to consideration: the manufacturing interest. The question of right had not been discussed at the negotiation of Ghent. The British plenipotentiaries had given a notice that the British government did not intend hereafter to grant to the people of the United States the right to fish, and to cure and dry fish within the exclusive British jurisdiction in America, without an equivalent, as it had been granted by the treaty of peace in seventeen hundred and eighty-three. The American plenipotentiaries had given notice, in return, that the American government considered all the rights and liberties in and to the fisheries on the whole coast of North America, as sufficiently secured by the possession of them, which had always been enjoyed previous to the revolution, and by the recognition of them, in the treaty of peace in 1783. That they did not think any new stipulation necessary for a further confirmation of the right; no part of which did they consider as having been forfeited by the war. It was obvious, that the treaty of peace of 1783 was not one of those ordinary treaties, which, by the usages of nations, were held to be annulled by a subsequent war between the same parties. It was not, simply, a treaty of peace. It was a treaty of partition between two parts of one nation, agreeing thenceforth to be separated into two distinct sovereignties. The conditions, upon which this was done, constituted, essentially, the independence of the United States, and the preservation of all the fishing rights, which they had constantly enjoyed over the whole coast of North America, was among the most important of them. This was no concession, no grant, on the part of Great Britain, which could be annulled by a war. There had been, in the same treaty of 1783, a right recognized in British subjects to navigate the Mississippi. This right the British plenipotentiaries at Ghent, had considered as still a just claim on the part of Great Britain, notwithstanding the war that had intervened. The American plenipotentiaries, to remove all future discussion upon both points, had offered to agree to an article, expressly confirming both the rights. In declining this, an offer had been made on the part of Great Britain, of an article, stipulating to negotiate in future, for the renewal of

both the rights, *for equivalents*, which was declined by the American plenipotentiaries, on the express ground, that its effect would have been an implied admission that the rights had been annulled. There was, therefore, no article concerning them in the treaty, and the question, as to the right, was not discussed. I now stated the ground upon which the government of the United States considered the right as subsisting and unimpaired. The treaty of 1783, was, in its essential nature, not liable to be annulled by a subsequent war. It acknowledged the United States as a sovereign and independent power. It would be an absurdity, inconsistent with the acknowledgment itself, to suppose it liable to be forfeited by a war. The whole treaty of Ghent did constantly refer to it as existing, and in full force; nor was an intimation given, that any further confirmation of it was supposed to be necessary. It would be for the British government ultimately to determine, how far this reasoning was to be admitted as correct. There were, also, considerations of policy and expediency, to which I hoped they would give suitable attention, before they should come to a final decision upon this point. I thought it my duty to suggest them, that they might not be overlooked. The subject was viewed, by my countrymen, as highly important, and I was anxious to omit no effort, which might, possibly, have an influence in promoting friendly sentiments between the two nations, or in guarding against the excitement of others. These fisheries afforded the means of subsistence to multitudes of people, who were destitute of any other. They also afforded the means of remittance to Great Britain in payment for articles of her manufactures, exported to America. It was well understood to be the policy of Great Britain, that no unnecessary stimulus should be given to the manufactures in the United States, which would diminish the importation from those of Great Britain. But, by depriving the fishermen of the United States of this source of subsistence, the result must be, to throw them back upon the country and drive them to the resort of manufacturing for themselves; while, on the other hand, it would cut off the means of making remittances in payment for the manufactures of Great Britain."

"I thought it best to urge every consideration, which might influence a party having other views in that respect, to avoid coming to a collision upon it. I would even urge considerations of humanity. I would say that fisheries, the nature of which was to multiply the means of subsistence to mankind, were usually considered, by civilized nations, as under a sort of special sanction. It was a common practice to have them uninterrupted even in time of war. He knew, for instance, that the Dutch had been, for centuries, in the practice of fishing upon the coasts of this island, and that they were not interrupted in this occupation, even in ordinary times of war. It was to be inferred from this, that, to interdict a fishery, which has been enjoyed for ages, far from being an usual act in the peaceable relations between nations, was an indication of animosity, transcending even the ordinary course of hostility in war. He said that no such disposition was entertained by the British government. That to shew the liberality which they had determined to exercise in this case, he would assure me, that the instructions which he had given to the officers on that station had been, not even to interrupt the American fishermen, who might have proceeded to those coasts, within the British jurisdiction, for the present year; to allow them to complete their fares, but to give them notice that this privilege could no longer be allowed by Great Britain, and that they must not return the next year. It was not so much the fishing, as the drying and curing on the shores, that had been followed by bad consequences. It happened that our fishermen, by their proximity, could get to the fishing sta-

tions sooner in the season than the British, who were obliged to go from Europe, and who, upon arriving there, found all the best fishing places, and drying and curing places, pre-occupied. This had often given rise to disputes and quarrels between them, which, in some instances, had proceeded even to blows. It had disturbed the peace among the inhabitants on the shores; and, for several years before the war, the complaints to this government had been so great, and so frequent, that it had been impossible not to pay regard to them. I said, that I had not heard of any such complaints before, but, that as to the disputes arising from the competition of the fishermen, a remedy could surely, with ease, be found for them, by suitable regulations of the government; and with regard to the peace of the inhabitants, there could be little difficulty in securing it, as the liberty enjoyed by the American fishermen was limited to unsettled and uninhabited places, unless they could, in the others, obtain the consent and agreement of the inhabitants."

"The answer which was so promptly sent to the complaint relative to the warning of the fishing vessels, by the captain of the Jaseur, will, probably, be communicated to you before you will receive this letter. You will see whether it is so precise, as to the limits within which they are determined to adhere to the exclusion of our fishing vessels, as Lord Bathurst's verbal statement of it to me—namely, to the extent of one marine league from their shores. Indeed it is to the curing and drying upon the shore, that they appear to have the strongest objection. But that, perhaps, is because, that they know the immediate curing and drying of the fish, as soon as they are taken, is essential to the value, if not to the very prosecution of the fishery. I have no expectation that the arguments used by me, either in support of our right, or as to the policy of Great Britain, upon this question, will have any weight here. Though satisfied of their validity myself, I am persuaded it will be upon the determination of the American government, and people, to maintain the right, that the continuance of its enjoyment will alone depend."

Extract of a letter from Mr. Adams to Mr. Monroe.

LONDON, *26th September*, 1815.

"I have the honor to enclose a copy of a letter which I have addressed to Lord Bathurst on the subjects referred to, in your instructions of 21st July, and concerning which I had on the 14th instant, an interview with him, the account of which was reported in my last letter. I have not yet received any answer to either of those which I addressed to Lord Castlereagh, in relation to the slaves carried away, in violation of the first article of the treaty of Ghent."

Extract of a letter from Mr. Adams to Earl Bathurst.

Charles-street, Westminster.
25th September, 1815.

"In the conference with your Lordship, with which I was honored on the 14th instant, I represented to you, conformably to the instructions

which I had received from the government of the United States, the proceedings of several British officers in America, and upon the American coast, marked with characters incompatible, not only with those amicable relations, which it is the earnest desire of the American government to restore and to cultivate, but even with the condition of peace, which had been restored between the two countries, by the treaty of Ghent.

It was highly satisfactory to be informed, that the conduct of captain Lock, commander of the sloop of war Jaseur, in warning American fishing vessels not to come within sixty miles of the coast of his Majesty's possessions in North America, was unauthorized, and that the instructions to the British officers on that station, far from warranting such a procedure, had directed them not even to molest the American fishing vessels which might be found pursuing that occupation during the present year. In offering a just tribute of acknowledgment to the fairness and liberality of these instructions issued from your Lordship's office, there only remained the regret, that the execution had been so different from them in spirit, so opposite to them in effect.

But, in disavowing the particular act of the officer, who had presumed to forbid American fishing vessels from approaching within sixty miles of the American coast, and in assuring me, that it had been the intention of this government, and the instructions given by your Lordship, not even to deprive the American fishermen of any of their accustomed liberties, during the present year, your Lordship did also express it, as the intention of the British government, to exclude the fishing vessels of the United States, hereafter, from the liberty of fishing within one marine league of the shores of all the British territories in North America, and from that of drying and curing their fish on the unsettled parts of those territories, and, with the consent of the inhabitants, on those parts which have become settled since the peace of 1783.

I then expressed to your Lordship my earnest hope, that this determination had not been irrevocably taken, and stated the instructions which I had received to present to the consideration of his Majesty's government the grounds upon which the United States conceive those liberties to stand, and upon which they deem that such exclusion cannot be effected without an infraction of the rights of the American people.

In adverting to the origin of these liberties, it will be admitted, I presume, without question, that, from the time of the settlements in North America, which now constitute the United States, until their separation from Great Britain, and their establishment as distinct sovereignties, these liberties of fishing, and of drying and curing fish, had been enjoyed by them, in common with the other subjects of the British empire. In point of principle, they were pre-eminently entitled to the enjoyment, and, in point of fact, they had enjoyed more of them, than any other portion of the empire; their settlement of the neighboring country having naturally led to the discovery and improvement of these fisheries, and their proximity to the places where they are prosecuted, and the necessities of their condition, having led them to the discovery of the most advantageous fishing grounds; and given them facilities in the pursuit of their occupation in those regions, which the remoter parts of the empire could not possess. It might be added, that they had contributed their full share, and more than their share, in securing the conquest from France, of the provinces on the coasts of which these fisheries were situated.

It was, doubtless, upon considerations such as these, that, in the treaty of peace, between His Majesty and the United States, of 1783, an ex-

press stipulation was inserted, recognizing the rights and liberties which had always been enjoyed by the people of the United States in these fisheries, and declaring that they should continue to enjoy the right of fishing on the Grand Bank, and other places of common jurisdiction, and have the liberty of fishing, and of drying and curing their fish, within the exclusive British jurisdiction, on the North American coasts, to which they had been accustomed while themselves formed a part of the British nation. This stipulation was a part of that treaty, by which his Majesty acknowledged the United States as free, sovereign, and independent States, and that he treated with them as such.

It cannot be necessary for me to prove, my Lord, that that treaty is not, in its general provisions, one of those, which, by the common understanding and usage of civilized nations is, or can be considered as annulled by a subsequent war between the same parties. To suppose that it is, would imply the inconsistency and absurdity of a sovereign and independent state, liable to forfeit its right of sovereignty, by the act of exercising it on a declaration of war. But the very words of the treaty attest, that the sovereignty and independence of the United States were not considered or understood as grants from his Majesty. They were taken and expressed as existing before the treaty was made, and as then only first formally recognized and acknowledged by Great Britain.

Precisely of the same nature were the rights and liberties in the fisheries to which I now refer. They were, in no respect, grants from the King of Great Britain to the United States; but the acknowledgment of them, as rights and liberties enjoyed before the separation of the two countries, and which, it was mutually agreed, should continue to be enjoyed under the new relations which were to subsist between them, constituted the essence of the article concerning the fisheries. The very peculiarity of the stipulation is an evidence that it was not, on either side, understood or intended as a grant from one sovereign state to another. Had it been so understood, neither could the United States have claimed, nor would Great Britain have granted gratuitously any such concession. There was nothing, either in the state of things, or in the disposition of the parties, which could have led to such a stipulation, as on the ground of a grant, without an equivalent, by Great Britain.

Yet such is the ground upon which it appears to have been contemplated, as resting, by the British government, when their plenipotentiaries at Ghent, communicated, to those of the United States, their intentions as to the North American fisheries, viz: "That the British government did not intend to grant to the United States, gratuitously, the privileges formerly granted by treaty to them, of fishing within the limits of the British sovereignty, and of using the shores of the British territories for purposes connected with the British fisheries."

These are the words in which the notice, given by them, is recorded in the protocol of conference of the 8th of August, 1814. To this notice the American plenipotentiaries first answered, on the 9th of August, that they had no instructions, from their government, to negotiate upon the subject of the fisheries, and afterwards, in their note of 10th November, 1814, they expressed themselves in the following terms:

"In answer to the declaration made by the British plenipotentiaries, respecting the fisheries, the undersigned, referring to what passed in the conference of the 9th of August, can only state, that they are not authorized to bring into discussion any of the rights, or liberties, which the United States have heretofore enjoyed in relation thereto. From their nature,

and from the peculiar character of the treaty of 1783, by which they were recognized, no further stipulation has been deemed necessary, by the government of the United States, to entitle them to the full enjoyment of all of them."

If the stipulation of the treaty of 1783, was one of the conditions by which his majesty acknowledged the sovereignty and independence of the United States, if it was the mere recognition of rights and liberties previously existing, and enjoyed, it was neither a privilege gratuitously granted, nor liable to be forfeited by the mere existence of a subsequent war. If it was not forfeited by the war, neither could it be impaired by the declaration of Great Britain, that she did not intend to renew the grant. Where there had been no gratuitous concession, there could be none to renew; the rights and liberties of the United States could not be cancelled by the declaration of Great Britain's intentions. Nothing could abrogate them but the renunciation of them by the United States themselves.

Among the articles of that same treaty, of 1783, there is one, stipulating that the subjects and citizens of both nations shall enjoy, forever, the right of navigating the river Mississippi, from its sources to the ocean. And although, at the period of the negotiations of Ghent, Great Britain possessed no territory upon that river, yet the British plenipotentiaries, in their first note, considered Great Britain as still entitled to claim the free navigation of it, without offering for it any equivalent. And, afterwards, when offering a boundary line, which would have abandoned every pretension, even to any future possession on that river, they still claimed, not only its free navigation, but a right of access to it, from the British dominions in North America, through the territories of the United States. The American plenipotentiaries, to foreclose the danger of any subsequent misunderstanding and discussion upon either of these points, proposed an article recognizing anew the liberties on both sides. In declining to accept it, the British plenipotentiaries proposed an article engaging to negotiate, in future, for the renewal of both, for equivalents to be mutually granted. This was refused by the American plenipotentiaries, on the avowed principle, that its acceptance would imply the admission, on the part of the United States, that their liberties in the fisheries, recognized by the treaty of 1783, had been annulled, which they declared themselves in no manner authorized to concede.

Let it be supposed, my Lord, that the notice given by the British plenipotentiaries, in relation to the fisheries, had been in reference to another article of the same treaty. That Great Britain had declared, she did not intend to grant again, gratuitously, the grant in a former treaty of peace, acknowledging the United States as free, sovereign, and independent states; or, that she did not intend to grant, gratuitously, the same boundary line, which she had granted in the former treaty of peace. Is it not obvious, that the answer would have been, that the United States needed no new acknowledgment of their independence, nor any new grant of a boundary line. That, if their independence was to be forfeited, or their boundary line curtailed, it could only be by their own acts of renunciation, or of cession, and not by the declaration of the intentions of another government? And, if this reasoning be just, with regard to the other articles of the treaty of 1783, upon what principle can Great Britain select one article, or a part of one article, and say this particular stipulation is liable to forfeiture by war, or by the declaration of her will, while she admits the rest of the treaty to be permanent and irrevocable? In the negotiation of Ghent, Great Britain did propose several variations of the

boundary line, but she never intimated that she considered the line of the treaty of 1783 as forfeited by the war, or that its variation could be effected by the mere declaration of her intentions. She perfectly understood, that no alteration of that line could be effected but by the express assent of the United States, and, when she finally determined to abide by the same line, neither the British, nor the American plenipotentiaries, conceived that any new confirmation of it was necessary. The treaty of Ghent, in every one of its essential articles, refers to that of 1783, as being still in full force. The object of all its articles, relative to the boundary, is to ascertain, with more precision, and to carry into effect the provisions of that prior compact. The treaty of 1783, is, by a tacit understanding between the parties, and without any positive stipulation, constantly referred to as the fundamental law of the relations between the two nations. Upon what ground, then, can Great Britain assume that one particular stipulation in that treaty, is no longer binding upon her?

"Upon this foundation, my Lord, the government of the United States consider the people thereof as fully entitled, of right, to all the liberties in the North American fisheries, which have always belonged to them; which, in the treaty of 1783, were, by Great Britain, recognized as belonging to them; and which they never have, by any act of theirs, consented to renounce. With these views, should Great Britain ultimately determine to deprive them of the enjoyment of these liberties by force, it is not for me to say whether, or for what length of time, they would submit to the bereavement of that which they would still hold to be their unquestionable right. It is my duty to hope, that such measures will not be deemed necessary to be resorted to on the part of Great Britain; and to state, that, if they should, they cannot impair the right of the people of the United States to the liberties in question, so long as no formal and express assent of theirs shall manifest their acquiescence in the privation.

"In the interview with which your Lordship recently favored me, I suggested several other considerations, with the hope of convincing your Lordship, that, independent of the question of rigorous right, it would conduce to the substantial interests of Great Britain herself, as well as to the observance of those principles of benevolence and humanity, which it is the highest glory of a great and powerful nation to respect, to leave to the American fishermen the participation of those benefits which the bounty of nature has thus spread before them; which are so necessary to their comfort and subsistence; which they have constantly enjoyed hitherto; and which, far from operating as an injury to Great Britain, had the ultimate result of pouring into her lap a great portion of the profits of their hardy and laborious industry. That these fisheries afforded the means of subsistence to a numerous class of people in the United States, whose habits of life had been fashioned to no other occupation, and whose fortunes had allotted them no other possession. That to another, and, perhaps, equally numerous class of our citizens, they afforded the means of remittance and payment for the productions of British industry and ingenuity, imported from the manufactures of this United Kingdom. That, by the common and received usages among civilized nations, fishermen were among those classes of human society whose occupations, contributing to the general benefit and welfare of the species, were entitled to a more than ordinary share of protection. That it was usual to spare and exempt them even from the most exasperated conflicts of national hostility. That this nation had, for ages, permitted the fishermen of another country to frequent and fish upon the coasts of this Island, without interrupting them, even in times

of ordinary war. That the resort of American fishermen to the barren, uninhabited, and, for the great part, uninhabitable rocks, on the coasts of Nova Scotia, the Gulf of St. Lawrence, and Labrador, to use them occasionally for the only purposes of utility of which they are susceptible, if it must, in its nature, subject British fishermen, on the same coasts, to the partial inconvenience of a fair competition, yet produces, in its result, advantages to other British interests equally entitled to the regard and fostering care of their Sovereign. By attributing to motives derived from such sources as these, the recognition of these liberties by his Majesty's government, in the treaty of 1783, it would be traced to an origin certainly more conformable to the fact, and surely more honorable to Great Britain, than by ascribing it to the improvident grant of an unrequited privilege, or to a concession extorted from the humiliating compliance of necessity.

"In repeating, with earnestness, all these suggestions, it is with the hope that, from some, or all, of them, his Majesty's government will conclude the justice and expediency of leaving the North American fisheries in the state in which they have, heretofore, constantly existed; and the fishermen of the United States unmolested in the enjoyment of their liberties."

Mr. Adams to Mr. Monroe.

LONDON, 31*st October*, 1815.

SIR: I have the honor to enclose copies of two papers received from Lord Bathurst, relative to the taking and carrying away of slaves from the United States by the British naval commander, in violation of the first article of the treaty of Ghent, and also by an abuse of the privilege allowed to a flag of truce.

I have the honor to be, respectfully,
Sir, your very humble, and obedient servant,
JOHN QUINCY ADAMS.

Lord Bathurst to Mr. Adams.

FOREIGN OFFICE, *October* 25, 1815.

The undersigned, one of his Majesty's principal Secretaries of State, has had the honor to receive Mr. Adams's letters of the 9th of August, and 5th of September last, the first of which recites the first article of the treaty of Ghent, and requires "that his Majesty's naval commanders, who, at the restoration of peace between the United States and Great Britain, were stationed on the American coast, should restore the slaves taken by them from their owners in the United States during the war, and then in their possession."

This claim is set up in consequence of the following interpretation, which is given to the first article of the said treaty, by the government of the United States, in as far as it relates to slaves and private property, namely, "That, in evacuating all places within the jurisdiction of the United States, and, in departing from their waters, the

British commanders were bound not to carry away any slaves, or other private property of the citizens of the United States, which had been taken up on their shores:" and it takes its origin from a different construction of the same article of the treaty, by his Majesty's naval officers on the coast of America, who, (according to Mr. Monroe's letter to Mr. Baker, of the 1st of April,) contend, that "Slaves and other private property, are comprised under the same regulation with artillery, and other public property, and that none ought, in consequence, to be restored, except such as were, at the time of the exchange of the ratifications of the treaty, in the forts and places where they were originally taken."

The arguments brought forward by the American government, in support of their understanding of the first article of the treaty of Ghent, rest partly upon the wording of the article itself, and partly upon such collateral evidence as may be deduced from the intention of the negotiators at the time they drew up that article.

The undersigned need not remind Mr. Adams of the inconvenience which would result, were the parties, upon whom treaties are binding, to recur to the intentions of the negotiators of such treaty, instead of taking as their guide the context of the treaty itself, on any point of controversy respecting it.

The undersigned is, however, willing to waive this objection.

In this instance, it would appear that the alteration in the original article, proposed by the British Commissioners, was introduced by a verbal amendment suggested by the American Plenipotentiaries. Many alterations of this kind took place, sometimes at the suggestion of one party, and sometimes of the other. But it surely is not meant to be inferred from this, that a change of phrase, professedly verbal, is to be taken as necessarily denoting or importing an admitted change of construction. It is certainly possible, that one party may propose an alteration, with a mental reservation of some construction of his own, and that he may assent to it, on a firm persuasion, that the construction continues to be the same, and that, therefore, he may conciliate, and yet concede nothing by giving his assent. The proposed alteration was considered as merely verbal; no suspicion appears to have been entertained, that it changed the stipulation as originally introduced; and it is not averred that the American Plenipotentiaries then thought of the construction now set up by their government. The meaning of the British negotiators is admitted to have been made quite apparent by their projet, and, as nothing passed indicative of any objection to it, on the part of the American Commissioners, or of any departure from it by the British negotiators, when the alteration was suggested by one party, and acceded to by the other, and, as there was no discussion on the propriety of making the restitution more extensive as to slaves, and other private property, than as to the other property mentioned, the undersigned cannot subscribe to the conclusions which Mr. Adams and his government have drawn from this manner of viewing the subject.

The undersigned will now proceed to examine that part of the subject which regards the construction that has been given to the con-

text of the article in question, by the government of the United States.

By the first article of the treaty, it is stipulated, that "there shall be a firm and universal peace between his Britannic Majesty and the United States, and between their respective countries, territories, cities, towns, and people of every degree, without exception of places or persons. All hostilities, both by sea and land, shall cease as soon as this treaty shall have been ratified by both parties, as hereinafter mentioned. All territory, places, and possessions, whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away of any of the artillery, or other public property, originally captured in said ports or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property. And all archives, records, deeds, and papers, either of a public nature, or belonging to private persons, which, in the course of the war, may have fallen into the hands of the officers of either party, shall be, as far as may be practicable, forthwith restored and delivered to the proper authorities and persons to whom they respectively belong."

"Such of the islands in the bay of Passamaquoddy as are claimed by both parties, shall remain in the possession of the party in whose occupation they may be at the time of the exchange of the ratifications of this treaty, until the decision respecting the title to the said islands shall have been made in conformity with the fourth article of this treaty."

"No disposition made by this treaty, as to such possession of the islands and territories claimed by both parties, shall, in any manner whatsoever, be construed to affect the right of either."

The main purport of the first article in the former part of it, relates to the general pacification, and, in the latter part of it, to some of the direct consequences on the territorial possessions of the two countries, and the property within such possessions. As to the public property in the posts or places to be restored, it provides, that, if it shall have the double condition annexed to it, of having been originally captured therein, and of remaining therein when the ratifications are exchanged, then such property is to be restored, and it is not to be destroyed, or carried away.

It would surely have been unusual and unreasonable to have stipulated for the restitution of any property, which never had belonged to the fort or place, or which had been already destroyed, or carried away, so as no longer, in fairness, to have been considered as belonging to it, for it would seem to have no connection with the subject-matter of that part of the article in which the stipulation concerning it, must be supposed to occur. As to public property, it appears quite plain, that the carrying away here spoken of, is from the fort, or place to which it belonged, and from no other; for the condition which is admitted to apply to that, would otherwise have no application at all. And no sound reason can be given, why the condition

might not, in both its branches, apply as well to private, as to public property, provided the construction would fairly admit of it. Both parties appear to agree to the conditions which relate to public property. But, then immediately follows, in the same sentence, the words "or any slaves, or other private property," and here the question is, whether slaves and other private property are to be restored under the same limitation, provided in the same article, and in that part of it, which immediately precedes the words in question, or whether they are to be restored under different provisions.

In the first place, the words do not admit of, nor is it contended by either party that there is, any distinction, whatever, made in this article, between slaves and other private property. They are incontestibly placed on the same footing, and whatever stipulations in this article apply to slaves, as one description of private property, must, of necessity, apply equally to all other private property referred to in the article.

The question then is, Under what conditions is it stipulated that private property, (slaves inclusive,) is to be restored? If it be contended, that, by the position of the words in this article, private property is released from all the conditions under which it is admitted that public property is to be restored, the restitution becomes in that case unconditional. But Mr. Monroe does not contend for an unconditional restitution, and therefore seems to admit, that the stipulation respecting private property is not a new and substantial stipulation, independent of preceding words, but that the words "carrying away," which, in the preceding part of the sentence, apply to the restitution of public property, apply equally to the restitution of private property. But, if the words "carrying away," apply to private as well as to public property, how entirely arbitrary it is to say, that the intervening words do apply to the one, and do not apply to the other, although the words "carrying away," grammatically govern both. Admitting, however, this arbitrary construction, still it would be more extensive than that for which Mr. Monroe contends. For, in case there could be no limitation assigned, as to the place where the private property was originally captured, nor any limitation as to the place from whence the private property was not to be carried away, all merchant vessels, therefore, captured on the high seas, and their effects, must, according to this construction, be restored, even if they should not be within the limits of the United States, at the time of the exchange of the ratifications. Neither could there be any limitation as to the time subsequent to which the carrying away is not to take place. It must be from the commencement of the war, or from the signature of the treaty, or from the exchange of the ratifications: whereas, Mr. Monroe contends, that the places where they had been originally captured, the places from whence they must not be carried away, and the period to which this limitation applies, are all ascertained by the first article.

According to the construction of this article by the American government, the private property, in contemplation, is limited to such as had been originally captured within the territories of the United

States, and such property, so captured, must not be carried away after the exchange of the ratifications, nor from any place within the limits of the United States, whether this private property be, at that period, in American ports, or British ships of war, or British vessels.

But if the first article provide for all these stipulations, one of them, placing private property on the same footing as that on which, by the same, public property is placed, and the others establishing dissimilar conditions, it is impossible to look at those passages in this first article, which can alone be made to apply to such provisions, and not be at once satisfied that these limitations cannot be extracted without such omissions and interpolations, as the undersigned is persuaded that it is not the intention of the American government to maintain. As to the application of this article to private property, on ship board, neither does the first article itself, nor did any discussion respecting it, express or refer to any such restitution of property remaining in British ships of war or British vessels. There are not only no words in the article, which stipulate such a provision, but there is a provision in the second article, which stipulates the contrary. By the second, the conditions are stipulated on which vessels and their effects are to be restored. They are to be restored, if the vessels be not captured, until after a given time from the exchange of the ratifications. If the vessels were captured previous to the time limited, neither they, nor their effects, are to be restored, wherever such vessels, with their effects, may be, although they should be within the limits of the United States; yet, according to the stipulations of the second article, which have a direct application to private property, on ship board, if they have been captured within a limited time, they may be carried away at any subsequent period, without reference to the exchange of the ratifications.

To Mr. Monroe's observation, that destruction, in the first article, cannot apply to slaves, it might be sufficient to answer, that the expression may certainly apply to other private property, and that the stipulations which apply to the one, must apply to the other; but the observation is, in truth, not material to the question at issue, because the point in dispute is not with reference to private property destroyed, but to private property carried away, which words, it is admitted, do apply to slaves and other private property. The question then seems to be this: Is that construction the true one which is the most simple, and is grammatically correct, and was that which, it is admitted, one of the contracting parties intended, and against which the other did not at the time object; or is that construction to be adopted which was not at the time professed, which the words in the article do not express, and which is in contravention of the article which immediately follows it?

In this alternative, the undersigned has no hesitation in communicating to Mr. Adams, that the British government is under the necessity of adhering to the construction of the disputed point, in the first article of the treaty of Ghent, as set forth in this note, much as it has to regret, that that construction should differ so widely from that of the government of the United States.

The undersigned requests Mr. Adams to accept the assurances of his high consideration.

BATHURST.

Mr. Adams to Mr. Monroe.

LONDON, *8th November*, 1815.

SIR: Since I had the honor of writing you last, of the 31st ultimo, I have received from Lord Bathurst a note in answer to my letter to him relating to the fisheries, copy of which is herewith enclosed. I hope shortly to reply to this note, and perceive nothing in it, which can render the rights of the United States, to the participation in the fisheries, in any manner dubious.

It will be for the government of the United States to determine, whether the negotiation, proposed by Lord Bathurst, will be advisable, and I pray to be honored with the President's instructions on the subject, as soon as possible.

I am, with great respect,
Sir, your very obedient humble servant,
JOHN QUINCY ADAMS.

Hon. JAMES MONROE,
&c. &c. &c.

Lord Bathurst to Mr. Adams.

FOREIGN OFFICE, *October 30th*, 1815.

The undersigned, one of his Majesty's principal Secretaries of State, had the honor of receiving the letter of the Minister of the United States, dated the 25th ultimo, containing the grounds upon which the United States conceive themselves, at the present time, entitled to prosecute their fisheries within the limits of the British sovereignty; and to use British territories for purposes connected with the fisheries.

A pretension of this kind was certainly intimated on a former occasion, but in a manner so obscure that his Majesty's government were not enabled even to conjecture the grounds upon which it could be supported.

His Majesty's government have not failed to give to the argument contained in the letter of the 25th ultimo, a candid and deliberate consideration; and, although they are compelled to resist the claim of the United States, when thus brought forward as a question of right, they feel every disposition to afford to the citizens of those states, all the liberties and privileges connected with the fisheries, which can consist with the just rights and interests of Great Bri-

tain, and secure his Majesty's subjects from those undue molestations in their fishery, which they have formerly experienced from citizens of the United States. The Minister of the United States appears, by his letter, to be well aware that Great Britain has always considered the liberty formerly enjoyed by the United States, of fishing within British limits, and using British territory, as derived from the third article of the treaty of 1783, and from that alone. And that the claim of an independent state to occupy and use at its discretion, any portion of the territory of another, without compensation, or corresponding indulgence, cannot rest on any other foundation than conventional stipulation. It is unnecessary to inquire into the motives which might have originally influenced Great Britain, in conceding such liberties to the United States, or whether other articles of the treaty, wherein these liberties are specified, did, or did not, in fact, afford an equivalent for them; because all the stipulations profess to be founded on reciprocal advantages and mutual convenience. If the United States derived from that treaty privileges from which other independent nations, not admitted by treaty, were excluded, the duration of the privileges must depend on the duration of the instrument by which they were granted, and if the war abrogated the treaty, it determined the privileges. It has been urged, indeed, on the part of the United States, that the treaty of 1783 was of a peculiar character, and that because it contained a recognition of American independence, it could not be abrogated by a subsequent war between the parties. To a position of this novel nature, Great Britain cannot accede. She knows of no exception to the rule, that all treaties are put an end to by a subsequent war between the same parties; she cannot, therefore, consent to give to her diplomatic relations with one state, a different degree of permanency from that on which her connection with all other states depends. Nor can she consider any one state at liberty to assign to a treaty made with her, such a peculiarity of character, as shall make it, as to duration, an exception to all other treaties, in order to found, on a peculiarity thus assumed, an irrevocable title to all indulgences, which have all the features of temporary concessions.

The treaty of Ghent has been brought forward by the American Minister, as supporting by its reference to the boundary line of the United States, as fixed by the treaty of 1783, the opinion that the treaty of 1783 was not abrogated by the war. The undersigned, however, cannot observe in any one of its articles, any express or implied reference to the treaty of 1783, as still in force. It will not be denied, that the main object of the treaty of Ghent, was the mutual restoration of all territory taken by either party from the other during the war. As a necessary consequence of such a stipulation, each party reverted to their boundaries as before the war, without reference to the title by which these possessions were acquired, or to the mode in which their boundaries had been previously fixed. In point of fact, the United States had before acquired possession of territories, asserted to depend on other titles than those which Great Britain could confer. The treaty of Ghent, indeed, adverted, as a

fact of possession, to certain boundaries of the United States, which were specified in the treaty of 1783, but surely, it will not be contended, that, therefore, the treaty of 1783 was not considered at an end.

It is justly stated by the American Minister, that the United States did not need a new grant of the boundary line. The war did not arise out of a contested boundary; and Great Britain, therefore, by the act of treating with the United States, recognized that nation in its former dimensions, excepting so far as the *jus belli* had interfered with them, and it was the object of the treaty of Ghent to cede such rights to territory as the *jus belli* had conferred.

Still less does the free navigation of the Mississippi, as demanded by the British negotiators at Ghent, in any manner express or imply the non-abrogation of the treaty of 1783, by the subsequent war. It was brought forward by them, as one of many advantages, which they were desirous of securing to Great Britain, and if, in the first instance demanded without equivalent, it left it open to the negotiators of the United States to claim for their government, in the course of their conferences, a corresponding benefit. The American minister will recollect, that propositions of this nature were, at one time, under discussion, and that they were only abandoned at the time that Great Britain relinquished her demand to the navigation of the Mississippi. If then the demand on the part of Great Britain, can be supposed to have given any weight to the present argument of the United States, the abandonment of that demand must have effectually removed it.

It is by no means unusual for treaties containing recognitions and acknowledgments of title, in the nature of perpetual obligation, to contain, likewise, grants of privileges liable to revocation. The treaty of 1783, like many others, contained provisions of different characters, some in their own nature irrevocable, and others of a temporary nature. If it be thence inferred, that, because some advantages specified in that treaty, would not be put an end to by the war, therefore all the other advantages were intended to be equally permanent, it must first be shewn that the advantages themselves are of the same, or, at least, of a similar character; for the character of one advantage recognized, or conceded by treaty, can have no connection with the charaeter, of another, though conceded by the same instrument, unless it arises out of a strict and necessary connection between the advantages themselves. But, what necessary connection can there be between a right to independence and a liberty to fish within British jurisdiction, or to use British territory? Liberties within British limits are as capable of being exercised by a dependent, as by an independent state, and cannot, therefore, be the necessary consequence of independence.

The independence of a state is that which cannot be correctly said to be granted by a treaty, but to be acknowledged by one. In the treaty of 1783, the independence of the United States was certainly acknowledged, not merely by the consent to make the treaty, but by the previous consent to enter into the provisional articles executed in

November, 1782. The independence might have been acknowledged, without either the treaty or the provisional articles; but by whatever mode acknowledged, the acknowledgment is, in its own nature, irrevocable. A power of revoking, or even of modifying it, would be destructive of the thing itself, and, therefore, all such power is necessarily renounced, when the acknowledgment is made. The war could not put an end to it, for the reason justly assigned by the American Minister, because a nation could not forfeit its sovereignty by the act of exercising it; and for the further reason that Great Britain, when she declared war on her part, against the United States, gave them, by that very act, a new recognition of their independence.

The nature of the liberty to fish within British limits, or to use British territory, is essentially different from the right to independence, in all that may reasonably be supposed to regard its intended duration. The grant of this liberty has all the aspect of a policy temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences, in a military, naval, or commercial point of view, resulting from the access of an independent nation to such islands and places.

When, therefore, Great Britain, admitting the independence of the United States, denies their right to the liberties for which they now contend, it is not that she selects, from the treaty, articles, or parts of articles, and says, at her own will, this stipulation is liable to forfeiture by war, and that it is irrevocable; but the principle of her reasoning is, that such distinctions arise out of the provisions themselves, and are founded on the very nature of the grants. But the rights acknowledged by the treaty of 1783, are not only distinguishable from the liberties conceded by the same treaty, in the foundation upon which they stand, but they are carefully distinguished in the treaty of 1783 itself. The undersigned begs to call the attention of the American Minister to the wording of the 1st and 3d articles, to which he has often referred, for the foundation of his arguments. In the first article, Great Britain acknowledges an independence already expressly recognized by the powers of Europe, and by herself, in her consent to enter into provisional articles, of November, 1782. In the 3d article, Great Britain acknowledges the *right* of the United States to take fish on the banks of Newfoundland, and other places, from which Great Britain has no right to exclude an independent nation. But they are to have the *liberty* to cure and dry them in certain unsettled places, within his majesty's territory. If these liberties, thus granted, were to be as perpetual and indefeasible as the rights previously recognized, it is difficult to conceive, that the Plenipotentiaries of the United States would have admitted a variation of language, so adapted to produce a different impression; and, above all, that they should have admitted so strange a restriction of a perpetual and indefeasible right, as that with which the article concludes, which leaves a right so practical and so beneficial as this is admitted to be, dependent on the will of British subjects, in their character of

inhabitants, proprietors, or possessors of the soil, to prohibit its exercise altogether.

It is surely obvious, that the word *right* is, throughout the treaty, used as applicable to what the United States were to enjoy, in virtue of a recognized independence, and the word *liberty* to what they were to enjoy, as concessions strictly dependent on the treaty itself.

The right of the United States has been asserted upon other arguments, which appear to the undersigned not altogether consistent with those that had been previously advanced. It has been argued by the Minister of the United States, that the treaty of 1783 did not confer upon the United States the liberty of fishing within British jurisdiction, and using British territory, but merely recognized a right, which they previously had; and it has been thence inferred, that the recognition of this right, renders it as perpetual as that of their independence.

If the treaty of 1783 did not confer the liberties in question, the undersigned cannot understand why, in their support, the point should have been so much pressed, that the treaty is in force, notwithstanding the subsequent war. If, as stated by the American Minister, the time of the settlement of North America was the origin of the liberties of the United States, in respect to the fisheries, and their independence, as recognized in 1783, was, as further argued by him, the mere recognition of rights and liberties previously existing, (which must have been in virtue of their independence,) it would seem to follow, that their independence was recognized from the time of the settlement of North America—for no other period can be assigned. The undersigned is totally unable to collect when the American Minister considers the independence of his country to have commenced; yet this is a point of no small importance, if other rights are to be represented as coeval with it, or dependant on it.

As to the origin of these privileges, in point of fact, the undersigned is ready to admit, that, so long as the United States constituted a part of the dominions of his Majesty, the inhabitants had the enjoyment of them, as they had of other political and commercial advantages, in common with his Majesty's subjects. But they had, at the same time, in common with his Majesty's other subjects, duties to perform; and when the United States, by their separation from Great Britain, became released from the duties, they became excluded, also, from the advantages of British subjects. They cannot, therefore, now claim, otherwise than by treaty, the exercise of privileges belonging to them as British subjects, unless they are prepared to admit, on the part of Great Britain, the exercise of the rights which she enjoyed previous to the separation.

If it be contended, on the part of the United States, that, in consequence of having been once a part of the British dominions, they are now entitled, as of right, to all the privileges which they enjoyed as British subjects, in addition to those which they have as an independent people, the undersigned cannot too strongly protest against such a doctrine; and it must become doubly necessary for Great Bri-

tain to hesitate in conceding the privileges which are now the subject of discussion, lest, by such a concession, she should be supposed to countenance a principle not less novel than alarming.

But, though Great Britain can never admit the claim of the United States to enjoy those liberties, with respect to the fisheries, as matter of right, she is, by no means, insensible to some of those considerations with which the letter of the American Minister concludes.

Although his Majesty's government cannot admit that the claim of the American fishermen to fish within British jurisdiction, *and* to use the British territory for purposes connected with their fishery, is analogous to the indulgence which has been granted to enemy's subjects engaged in fishing on the high seas, for the purpose of conveying fresh fish to market, yet they do feel that the enjoyment of the liberties, formerly used by the inhabitants of the United States, may be very conducive to their national and individual prosperity, though they should be placed under some modifications; and this feeling operates most forcibly in favor of concession. But Great Britain can only offer the concession in a way which shall effectually protect her own subjects from such obstructions to their lawful enterprises, as they too frequently experienced immediately previous to the late war, and which are, from their very nature, calculated to produce collision and disunion between the two States.

It was not of fair competition that his Majesty's government had reason to complain, but of the pre-occupation of British harbors and creeks, in North America, by the fishing vessels of the United States, and the forcible exclusion of British vessels from places where the fishery might be most advantageously conducted. They had, likewise, reason to complain of the clandestine introduction of prohibited goods into the British colonies, by American vessels, ostensibly engaged in the fishing trade, to the great injury of the British revenue.

The undersigned has felt it incumbent on him thus generally to notice these obstructions, in the hope that the attention of the government of the United States will be directed to the subject; and that they may be induced, amicably and cordially, to co-operate with his Majesty's goverment in devising such regulations as shall prevent the recurrence of similar inconveniences.

His Majesty's government are willing to enter into negotiations with the government of the United States for the modified renewal of the liberties in question; and they doubt not that an arrangement may be made, satisfactory to both countries, and tending to confirm the amity now so happily subsisting between them.

The undersigned avails himself of this opportunity of renewing to Mr. Adams the assurances of his high consideration.

BATHURST.

Mr. Monroe to Mr. Adams.

DEPARTMENT OF STATE,
February 27, 1816.

SIR: It being represented, by your letter of the 8th of November, that the British Government was disposed to regulate, in concert with the United States, the taking of fish on the coasts, bays, and creeks, of all his Britannic Majesty's dominions in America, and the curing, and drying of fish, by their citizens, on the unsettled bays, harbors, and creeks, of Nova Scotia, Magdalen Islands, and Labrador, in such manner as to promote the interest of both nations, you will consider this letter an authority and instruction to negotiate a convention for these purposes.

I have the honour to be, &c.
JAMES MONROE.

Mr. Monroe to Mr. Adams.

DEPARTMENT OF STATE,
27th February, 1816.

SIR: Since my last, of the 10th of December, I have had the honor to receive your letter of November 21st, with those of the 12th, 19th, 26th, and 30th of September, the 7th, and 31st of October, and 8th of November. With the latter, a copy of Lord Bathurst's reply to your note of September 25th, on the fisheries, was likewise received.

It appears by these communications, that, although the British Government denies our right of taking, curing, and drying fish within their jurisdiction, and on the coast of the British provinces in North America, it is willing to secure to our citizens the liberty stipulated by the treaty of 1783, under such regulations as will secure the benefit to both parties, and will likewise prevent the smuggling of goods into the British provinces, by our vessels engaged in the fisheries.

It is hoped, that the reply which you intimate you intended giving to Lord Bathurst's note, may have produced some change in the sentiments of the British Government on this interesting subject; it is, nevertheless, thought proper to enclose you an instruction, to be shewn to the British Government, authorizing you to negotiate a convention, providing for the objects contemplated.

It is very important that this trust should be executed in a manner not to weaken our right, which, it is presumed, may be done with the concurrence of the British Government, either by the reservation of mutual rights, or making the instrument a remedy for abuses.

As to the manner in which the injuries complained of by the British Government are to be remedied, you will be able in aid of your own knowledge of the subject, to obtain better information than I can communicate.

The British project will shew the nature and extent of these injuries, and it will be your object to make the remedy as harmless to our citizens, and safe to the public rights, as possible.

I have the honor to be, &c.

JAMES MONROE.

Extract of a letter from Mr. Monroe to Mr. Adams.

DEPARTMENT OF STATE,

May 24, 1816.

"A hope is entertained that you will have arranged with the British government the difference respecting the fisheries, before this reaches you. Should you not have been able to do it, you will endeavor to comprise it in the general arrangement which you are authorized to make, on the principles stated in my letter of the 27th of February."

Extract of a letter from Mr. Monroe to Mr. Adams.

DEPARTMENT OF STATE,

July 8, 1816.

"Mr. Bagot has received a power to arrange the difference respecting the taking and curing and drying fish on the shores of the British colonies; but whether it authorizes such an arrangement as will be useful and satisfactory to us, I am as yet uninformed."

Extract of a letter from Mr. Monroe to Mr. Adams.

DEPARTMENT OF STATE,

August 13, 1816.

"On the other subject,* Mr. Bagot offered to secure to us the right in question, on the Labrador Shore, between Mount Joli, and the Bay of Esquimaux, near the entrance of the Strait of Belle-Isle.

* Fisheries.

It was necessary for me to seek detailed information of the value of this accommodation, from those possessing it at Marblehead, and elsewhere, which I did; the result of which was, that it would be more for our advantage to commence at the last mentioned point, and to extend the right, eastward, through the Strait of Belle-Isle, as far along the Labrador Coast as possible. To this he objected, offering, then, an alternative on the shore of the Island of Newfoundland, to commence at Cape Ray, and extend, east, to the Ramea Islands. Of the value of this coast, I am likewise ignorant. The negotiation must, therefore, be again suspended, until I obtain the information requisite to enable me to act in it.

"It is probable that the arrangement of these two interests will again rest with you. The advantage of it, as you are already authorized to treat on other important subjects, is obvious.

"At the commencement of our conferences, Mr. Bagot informed me of an order which had been issued by Admiral Griffith to the British cruisers, to remove our fishing vessels from the coasts of those Provinces, which he would endeavor to have revoked, pending the negotiation. His attempt succeeded. I shall endeavor to have this revocation extended, so as to afford the accommodation desired, until the negotiation is concluded. All the information which has been, or may be obtained on this subject, shall be transmitted to you."

Extract of a letter from Mr. Adams to the Secretary of State, dated London, 24th August, 1816.

"On Wednesday last I had an interview with Lord Castlereagh, in which he informed me that this government declined entering upon any negotiation relative to the commercial intercourse between the United States and the British colonies in the West Indies: that they were averse to any discussion relative to blockades, and the other conflicting pretensions of neutral and belligerant rights; and that they were willing to receive any proposals that we may wish to offer, respecting the intercourse, by land, between the United States and the British continental colonies, and respecting seamen; but there was a manifest reluctance to negotiate even upon these points. With regard to the West Indies, he said it was understood by this government that the United States would be perfectly free to adopt any countervailing regulations, either of prohibition, or of additional duties, that they might think advisable: that Great Britain would have no right to complain of them: that the determination, in this instance, arose altogether from that of adhering to their colonial system, of the wisdom of which he spoke as being, in his own mind, not unquestionable, but from which it was not thought expedient now to depart."

From Mr. Adams to Mr. Monroe, Secretary of State, dated London, 18th September, 1816.

[EXTRACT.]

"You will perceive, by all my late despatches, that there is no prospect of doing any thing here, in the way of a negotiation upon objects of commerce. I addressed yesterday to Lord Castlereagh a note, renewing the proposal to negotiate; the object of which is to have the refusal explicitly signified in writing. In my last interview with Lord Castlereagh, he did unequivocally decline negotiation upon the trade between the United States and the British colonies in the West Indies, and upon all the questions relating to neutral rights in time of maritime war. He said they were willing to receive any proposition respecting seamen, and respecting the inland intercourse between the United States and the British colonies in North America. I told him I should repeat the proposal for treating, in a note. He expressed a wish that I would not mention, in the note, the neutral questions, at all. I was somewhat surprised at the objection, but promised him I would give it full consideration before I sent in the note. I did, accordingly, take ample time for reflection, and have concluded that I ought not only to include them in the note, but to urge with earnestness the reasons which make it peculiarly desirable that the two governments should come to an understanding upon those points, before the recurrence of a maritime war."

Extract of a letter from Mr. Adams to the Secretary of State, dated

LONDON, *27th September*, 1816.

"I have the honor of enclosing, herewith, a copy of the note which I have addressed to Lord Castlereagh, renewing the proposal for the negotiation of a treaty of commerce. From the determination of this government, as communicated to me in my personal interview with him on the 21st of August, it is to be expected that they will decline treating upon the subject of our trade with the British colonies, in the West Indies, and upon the questions relating to neutral interests during maritime war. They may profess to be willing to receive specific proposals relative to seamen, and to our inland intercourse with their colonies in North America; but, it is not probable that, upon either of those subjects, they will agree to any thing that can be satisfactory to you—nor shall I think it expedient to conclude any separate arrangement concerning them, excluding the others, without further instructions to that effect. In the conversations that I have had with Lord Castlereagh, he has given me very distinctly to understand, that, with regard to seamen, if they should even agree to the proposed stipulation of excluding from the respective naval and merchant services the native citizens and subjects of each other, they will not understand it as implying or intending an engagement to renounce the practice of taking men from our vessels, in the event of a future maritime war. In the instructions hitherto transmitted to me, it is not insisted that such a renunciation should be included in the article; yet, I cannot but suppose it was expected, that, if the article should be agreed to, it would be with at least a tacit understanding, that the practice of impressment shall be abandoned."

Mr. Adams to Lord Castlereagh.

13 Craven Street, 17*th September*, 1816.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has the honor of renewing to Lord Castlereagh the proposal which he has been instructed to make on the part of the government of the United States, for the negotiation of a treaty of commerce, embracing all the principal objects, most interesting to the friendly and commercial intercourse between the two nations. He has already exhibited to his lordship the authority with which he has been furnished by the American government for that purpose, and has fully stated to him the motives which induced this proposal. They are all founded in the anxious desire of the American government to cultivate the harmony between the two nations, and to concert, by engagements of mutual accommodation, such arrangements of the points from which differences have, unfortunately, arisen heretofore, or which might have a tendency to produce them hereafter, as may be satisfactory to both parties, guard against future misunderstandings, and promote that amicable temper and disposition which can alone perpetuate the peace and friendship, dictated by the clearest and highest interests, both of Great Britain and of the United States.

It will be recollected by Lord Castlereagh, that the commercial convention of 3d July, 1815, was not considered, at the time of its conclusion, as the ultimate or definitive arrangement of the commercial relations between the high contracting parties. Other objects, besides those upon which the agreement was completed, were discussed in the course of that negotiation. Others yet, including all, or most of those upon which Great Britain is now again invited to treat, were presented to the attention of the British Plenipotentiaries, but postponed, in consideration of peculiar circumstances then operating, and which have happily since been done away. In bringing them again to the view of the British cabinet, the undersigned has the honor of distinctly specifying the several objects upon which the American government repeats the proposal to enter into further reciprocal commercial stipulations, of suggesting the urgent additional motives for desiring them, which have arisen since that period, and of exposing the liberal principles upon which they propose that this supplementary treaty should be founded.

1. *The commerce between the United States and the British colonies in North America, and in the West Indies.*

From the relative geographical position of those countries; from the nature of their respective productions; and from the wants on either side, which may be most advantageously, if not exclusively supplied by the other; this commerce is not only of the greatest convenience to both parties, but, in some respects, and on many occasions, it is of the first necessity to the colonies. At the time when the commercial convention of 3d July, 1815, was negotiated, this commerce was open to vessels of the United States. The ports of the British colonies in the West Indies are still accessible, under certain restrictions, to French, Spanish, Dutch, Danish, and Swedish vessels; and while the ports of every nation in the West Indies, Great Britain alone excepted, are in like manner accessible to American vessels, they have been, and still are, by new regulations, enforced since the conclusion of that convention, rigorously excluded from the Bri-

tish ports. This exclusion of all participation in the advantage of carrying between the two countries, the articles of a commerce mutually beneficial to both parties, has not only the aspect of a policy peculiarly pointed against the United States, but it defeats, in a great degree, the principle of equalising the advantages of the commerce between the two countries, by equalising the duties and charges upon the vessels of both, in the direct intercourse between them. For, while British vessels, after performing a direct voyage from Europe to the United States, are there received upon terms of equality with those of the United States, they now enjoy the exclusive benefit of resorting to an intermediate market in the West Indies, while the vessels of the United States are restricted to the direct interchange, to and from Europe. The result of which is, that British vessels enjoy, in the ports of the United States, important advantages, even over the vessels of the United States themselves. It must be obvious that this cannot long be tolerated; that, if the commerce with those parts of the British dominions is not placed on a footing of reciprocity, similar restraints will become indispensable on the part of the United States. Such countervailing restraints were proposed at the last session of Congress, and postponed, in the hope that satisfactory arrangements might be made, before the next meeting, to prevent a recurrence to a system of commercial hostility, inconsistent with the interests of both nations, inauspicious to the amicable relations now existing between them, and repugnant to the most earnest wishes of the American government. In the arrangements proposed, they do not contemplate any interference, on their part, with the colonial monopoly of Great Britain. It is not asked that she should renounce the right of prohibiting the importation, into her colonies, from the United States, of whatever articles she may think fit: but that the commerce which, for their and her own advantage, Great Britain allows between them and the United States, should be placed on the same footing of reciprocity as the direct trade between Great Britain and the United States was intended to be placed by the Convention of 3d July, 1815.

While on this subject, the undersigned cannot but remark the extraordinary measures relating to the commercial intercouse between the United States, and the British colonies in North America and in the West Indies, adopted since the conclusion of the Commercial Convention of 3d July, 1815. In all of them, very heavy duties have been imposed upon the importation of American produce, even when carried in British ships. A heavy duty of exportation has been laid, in the province of Nova Scotia, upon plaster of Paris, an article for which there is no other market than the United States. And, in the province of Upper Canada, an act of the provincial legislature having first vested in the lieutenant governor and council the power of regulating the commercial intercourse between that province and the United States, that body did, on the 18th of April last, issue an order, imposing heavy duties upon many articles of the growth or manufacture of the United States, with an addition of twelve per cent. on all those duties, upon importation in American vessels, and a tonnage duty of twelve shillings and sixpence per ton, upon every vessel exceeding five tons burthen, entering any port or harbor of the province, and belonging to citizens of the United States. The inland commerce between the United States and Upper Canada, is believed to be of paramount importance to the province: but, were it even equally important to the United States, measures like these can be viewed in no other light than as efforts to engross, exclusively, the whole of the trade on one side. It would be far

more agreeable to the American government to settle this intercourse by amicable concert, than to be left under the necessity of meeting a system of exclusion by countervailing regulations.

2. *Seamen.*

It is proposed to stipulate, that neither the United States nor Great Britain shall employ, in their naval or merchant service, native citizens or subjects of the other party, with the exception of those already naturalized, of whom the number is very small. From the well-known fact that the wages of seamen in time of peace are invariably higher in the American service, of both descriptions, than in the British, it is apparent that the advantage of this stipulation will be almost entirely on the side of Great Britain. Although obviously proper that it should be reciprocal, it is offered, not as an engagement from which the United States expect to derive any advantage, in itself, but as the means to Great Britain of reserving to herself the services of all her own native seamen, and of removing forever the necessity of resorting to means of force, either by her naval officers, to take men from the vessels of the United States, or by the United States, to resist the renewal of that practice, in the event of any future maritime war, to which they may be neutral. In adopting the principle proposed, the American government are prepared to secure its faithful execution by any reciprocal regulation which may be deemed necessary, consistent with their Constitution and the spirit of their laws.

3. *Neutral and Belligerant Rights.*

It is equally desirable, in the view of the American government, to arrange, at this time, every question relating to neutral rights: particularly those concerning blockade; contraband of war; visits at sea of merchant vessels by ships of war; the trade with the colonies of enemies, and between them and the parent country, and the trade from one port of an enemy to another. The tendency of discordant principles upon these points to embroil neutral and belligerant states with each other, has been shown, by the melancholy experience of ages. The frequent departures, during the most recent wars, from all acknowledged principles founded on the general usages of nations, have still more unsettled whatever reliance might heretofore have been placed upon their authority. A time of peace, when the feelings of both parties are free from the excitement of any momentary interest, and when the operation of the principles to be sanctioned by mutual compact depends upon contingencies which may give either party the first claim to the stipulated rights of the belligerant or of the neutral, must be more favorable to the amicable adjustment of these questions, than a time of actual war, under circumstances when the immediate interests of each party are engaged in opposition to those of the other. Whether Great Britain or the United States will be first engaged in a maritime war with any third party, cannot now be foreseen; but it is of the deepest interest to the permanency of the peace and friendship between them that they should come to an explicit understanding with each other upon the points here referred to, before the occurrence of any such event on either side. It is not the desire of the American government to propose, upon these subjects, any innovation upon principles often recognised by Great Britain herself, in her treaties with other powers. They wish only, by a mutual

compact now formed, to guard against collisions, which the recollection of the past so forcibly admonishes the rulers of both nations to obviate, if possible, for the future.

4. *Slaves carried away from the United States, by British officers, after the Peace.*

As the construction given by his Majesty's government, to the first article in the treaty of Ghent, in reference to the slaves carried away from the United States by British officers, after the ratification of the peace, is so directly at variance with the construction which the American government think alone applicable to it, the undersigned has been further instructed to propose that this question should be submitted to the decision of some friendly sovereign. This reference is suggested by provisions in the treaty of Ghent itself, applicable to the contingency of differences in other instances; and it is conceived that, when such differences exist, no better mode can be adopted for settling them in a satisfactory manner.

Should his Majesty's government think proper to accept this proposal for a negotiation, upon the points with regard to which the general wishes of the government of the United States have been here frankly exposed, the undersigned will be ready to enter into further communications with any person who may be authorized to confer with him for the purpose of such a negotiation. If the offer should not be deemed acceptable, he requests the honor of as early an answer as may be convenient.

The undersigned prays Lord Castlereagh to accept the assurance of his high consideration. JOHN QUINCY ADAMS.

13, *Craven street*, 17*th Sept.* 1816.

Extract of a letter from Mr. Adams to the Secretary of State, dated

LONDON, *5th October*, 1816.

"Lord Castlereagh left London this week upon a visit to Ireland. Previous to his departure I received from him a letter, of which a copy is herewith enclosed. Although the absence of several of the Cabinet Ministers is alleged as the motive for postponing the answer to my note of the 17th September, and although his Lordship promises to lay the subjects suggested in it before his colleagues, immediately after his return, there is no reason to expect that any departure from the policy already determined upon will take place. It is probable that you will receive this despatch about the time of the meeting of Congress. Any measures in the spirit, and with the object, of those proposed at the last session, and then postponed, may be now adopted without hesitation. My own entire conviction is, that the operation of such measures, if successful, will be the only possible means of convincing this government of the expediency of relaxing from the rigour of their exclusive colonial system. It is, and uniformly has been, my opinion, that the result of the equalisation of duties will be to the advantage of Great Britain, and to our disadvantage. But the principle was sanctioned, by an act of Congress, before the Convention of 3d July, 1815, was negotiated. The benefit of the Convention to us, if any, is in the India trade; but as its duration is to be so short, the only chance of having it renewed, at the end of its four years, with additional articles of more liberality, will be effective counteracting regulations in respect to the commerce with the British colonies in the West Indies."

Lord Castlereagh to Mr. Adams, dated Foreign Office, September 28th, 1816.

SIR: I very much regret that the absence from London, at this season of the year, of several of the Prince Regent's ministers, will preclude me from returning as early an answer to your note of the 17th as I should wish, under the sense I entertain of the great importance of the several objects to which it invites the attention of this government.

I have myself obtained the permission of the Prince Regent to make a short excursion to Ireland on my private affairs, but I shall certainly return to London by the middle of November, and shall lose no time, as soon after that period as my colleagues shall be reassembled, to bring the various objects referred to in your note under their deliberation.

I request you will accept the assurances of the high consideration with which I have the honor to be,

Sir, your most obedient humble servant,

CASTLEREAGH.

JOHN QUINCY ADAMS, Esq.
&c. &c. &c.

Extract of a letter from Mr. Adams to the Secretary of State, dated London, 24th December, 1816.

"Yesterday morning I received a note from Lord Castlereagh, requesting me to call upon him; and he informed me, that, as he was going out of town for a few days, he had sent for me to say, that he had not forgotten his promise to me before his departure for Ireland; that the proposal in my note of 27th September, for a commercial negotiation, should be considered immediately after his return; that two cabinet councils had already been held on the subject, and, as soon as the objects could be sufficiently matured, for the proper authority to be given to him to treat, I should hear from him again. It would seem from this, as if the proposal would be so far accepted as to enter upon a negotiation; but, I beg leave to point your attention to an article in the Courier of last evening, stating the proceedings in the island of Dominica, after the late hurricane, including a letter from Earl Bathurst, dated the 28th of September last, and to an advertisement from the Victualling Office, for a supply of flour, to be delivered at several of the West India islands, from the United States, both in the same paper."

Mr. Monroe to Mr. Adams.

DEPARTMENT OF STATE, *February* 5, 1817.

SIR: I have the honor to forward to you, herewith, a copy of my correspondence with Mr. Bagot, in relation to the fisheries, on the coast of Labrador, &c. from which you will perceive, that our negotiation on that interesting subject has not had the desired result.

Mr. Bagot professes, on the part of his government, the most conciliatory dispositionin regard to this affair, and it is yet to be hoped that it may be satisfactoriiy settled. With this view, the President intends to renew the negotiation as soon as he can obtain the information necessary to enable him to decide what arrangement would be best calculated to reconcile the interests of both parties, which he hopes to do in the course of a few months. In the mean time, he expects that no measures will be taken by the British government to alter the existing state of things, and that it will be in your power to obtain the renewal of the order to the naval officer, commanding on that station, not to interrupt or disturb our fishermen during the approaching season.

You will see the importance of an early attention to this subject, as the fishing season is fast approaching.

I have the honor to be, &c.

JAMES MONROE.

Mr. Bagot to Mr. Monroe.

WASHINGTON, *November* 27, 1816.

SIR: In the conversation which I had with you a few days ago, upon the subject of the negotiation into which the British government is willing to enter, for the purpose of affording to the citizens of the United States such accommodation for their fishery, within the British jurisdiction, as may be consistent with the proper administration of his Majesty's dominions, you appeared to apprehend that neither of the propositions which I had had the honor to make to you upon this subject, would be considered as affording, in a sufficient degree, the advantages which were deemed requisite.

In order that I may not fail to make the exact nature of these propositions clearly understood, and that I may fully explain the considerations by which they have been suggested, it may, perhaps, be desirable that I should bring under one view the substance of what I have already had the honor of stating to you, in the several conferences which we have held upon this business.

It is not necessary for me to advert to the discussion which has taken place between Earl Bathurst and Mr. Adams. In the correspondence which has passed between them, you will have already seen, in the notes of the former, a full exposition of the grounds upon which

the liberty of drying and fishing within the British limits, as granted to the citizens of the United States by the treaty of 1783, was considered to have ceased with the war, and not to have been revived by the late treaty of peace.

You will also have seen therein detailed the serious considerations, affecting not only the prosperity of the British fishery, but the general interests of the British dominions, in matters of revenue, as well as government, which made it incumbent upon his Majesty's government to oppose the renewal of so extensive and injurious a concession, within the British sovereignty, to a foreign state, founded upon no principle of reciprocity, or adequate compensation, whatever. It has not been thought necessary to furnish me with additional argument upon this point. I therefore confine myself, upon the present occasion, to a brief repetition of what I have already, at different periods, had the honor to submit to your consideration, upon the subject of an arrangement, by which it is hoped practically to reconcile the different views of our respective governments.

It will be in your recollection, that, early in the month of July last, I had the honor to acquaint you that I had received instructions from my government to assure you, that, although it had been felt necessary to resist the claim which had been advanced by Mr. Adams, the determination had not been taken in any unfriendly feeling towards America, or with any illiberal wish to deprive her subjects of adequate means of engaging in the fisheries; but that, on the contrary, many of the considerations which had been urged by Mr. Adams, on behalf of the American citizens formerly engaged in this occupation, had operated so forcibly in favor of granting to them such a concession as might be consistent with the just rights and interests of Great Britain, that I had been furnished with full powers from his Royal Highness the Prince Regent to conclude an arrangement upon the subject, which it was hoped might at once offer to the United States a pledge of his Royal Highness' good will, and afford to them a reasonable participation of those benefits of which they had formerly the enjoyment.

It being the object of the American government, that, in addition to the right of fishery, as declared by the first branch of the 4th article of the treaty of 1783, permanently to belong to the citizens of the United States, they should also enjoy the privilege of having an adequate accommodation, both in point of harbors and drying ground, on the unsettled coasts within the British sovereignty, I had the honor to propose to you, that that part of the southern coast of Labrador which extends from Mount Joli, opposite the eastern end of the island of Anticosti, in the Gulf of St. Lawrence, to the Bay and Isles Esquimaux, near the western entrance of the Straits of Belle Isle, should be allotted for this purpose, it being distinctly agreed that the fishermen should confine themselves to the unsettled parts of the coast, and that all pretension to fish or dry within the maritime limits, or on any other of the coasts of British North America, should be abandoned.

Upon learning from you, some weeks afterwards, that, from the information which you had received upon the subject of this coast, you were apprehensive that it would not afford, in a sufficient degree, the advantages required, I did not delay to acquaint you that I was authorized to offer another portion of coast, which it was certainly not so convenient to the British government to assign; but which they would, nevertheless, be willing to assign, and which, from its natural and local advantages, could not fail to afford every accommodation of which the American fishermen could stand in need. I had then the honor to propose to you, as an alternative, that, under similar conditions, they should be admitted to that portion of the southern coast of Newfoundland which extends from Cape Ray, eastward, to the Ramea islands, or to about the longitude of 57 west of Greenwich.

The advantages of this portion of coast are accurately known to the British government; and, in consenting to assign it to the uses of the American fishermen, it was certainly conceived that an accommodation was afforded as ample as it was possible to concede, without abandoning that control within the entire of his Majesty's own harbors and coasts, which the essential interests of his Majesty's dominions required. That it should entirely satisfy the wishes of those who have for many years enjoyed, without restraint, the privilege of using, for similar purposes, all the unsettled coasts of Nova Scotia and Labrador, is not to be expected; but, in estimating the value of the proposal, the American government will not fail to recollect that it is offered without any equivalent, and notwithstanding the footing upon which the navigation of the Mississippi has been left by the treaty of Ghent, and the recent regulations by which the subjects of his Majesty have been deprived of the privileges, which they so long enjoyed, of trading with the Indian nations within the territory of the United States.

I have the honor to be, &c.

CHARLES BAGOT.

The Secretary of State to Mr. Bagot.

DEPARTMENT OF STATE,

December 30th, 1816.

SIR: I have had the honor to receive your letter of the 27th of November, and to submit it to the consideration of the President.

In providing for the accommodation of the citizens of the United States, engaged in the fisheries, on the coast of his Britannic Majesty's colonies, on conditions advantageous to both parties, I concur in the sentiment, that it is desireable to avoid a discussion of their respective rights; and to proceed, in a spirit of conciliation, to examine what arrangement will be adequate to the object. The discussion which has already taken place between our governments, has, it is

presumed, placed the claim of each party in a just light. I shall, therefore, make no remark on that part of your note, which relates to the right of the parties, other than by stating, that this government entered into this negotiation, on the equal ground of neither claiming or making any concession in that respect.

You have made two propositions, the acceptance of either of which must be attended with the relinquishment of all other claims on the part of the United States, founded on the first branch of the fourth article of the Treaty of 1783. In the first, you offer the use of the territory on the Labrador coast, lying between Mount Joli and the Bay of Esquimaux, near the entrance of the Strait of Belle-Isle; and in the second, of such part of the southern coast of the Island of Newfoundland, as lies between Cape Ray and the *Ramian* Islands.

I have made every inquiry that circumstances have permitted, respecting both these coasts, and find that neither would afford to the citizens of the United States the essential accommodation which is desired— neither having been much frequented by them heretofore, or likely to be in future. I am compelled, therefore, to decline both propositions.

I regret that it has not been in my power to give an earlier answer to your note: you will, however, have the goodness to impute the delay to a reluctance to decline any proposition which you had made, by the order of your government, for the arrangement of an interest of such high importance to both nations, and to the difficulty of obtaining all the information necessary to guide this government in the decision.

I have the honor to be, &c.

JAMES MONROE.

The Rt. Hon. CHARLES BAGOT.

Mr. Bagot to Mr. Monroe.

WASHINGTON, *December* 31, 1816.

SIR: I have had the honor to receive your letter of yesterday's date, acquainting me that neither of the propositions which I had submitted to your consideration, upon the subject of providing for the citizens of the United States, engaged in the fisheries, some adequate accommodation for their pursuit upon the coasts of his Majesty's territories, having been found to afford the essential conveniencies which are desired, you are compelled to decline them.

The object of his Majesty's government, in framing these propositions, was to endeavor to assign to the American fishermen, in the prosecution of their employment, as large a participation of the conveniencies afforded by the neighboring coasts of his Majesty's settlements, as might be reconcileable with the just rights and interests of his Majesty's own subjects, and the due administration of his Majes-

ty's dominions; and, it was earnestly hoped, that either one or the other of them would have been found to afford, in a sufficient degree, the accommodation which was required.

The wish of his Royal Highness the Prince Regent to extend to the citizens of the United States every advantage, which, for the purposes in view, can be derived from the use of his Majesty's coasts, has no other limit, than that which is necessarily prescribed by a regard to the important considerations to which I have adverted. His Royal Highness is willing to make the utmost concession which these considerations will admit; and in proof of the sincerity of this disposition, I have received his Royal Highness's instructions to acquaint you, that if, upon examination of the local circumstances of the coasts, which I have had the honor to propose, the American government should be of opinion that neither of them, taken separately, would afford, in a satisfactory degree, the conveniencies which are deemed requisite, his Royal Highness will be willing that the citizens of the United States should have the full benefit of both of them, and that, under the conditions already stated, they should be admitted to each of the shores, which I have had the honour to point out.

In consenting to assign to their use so large a portion of his Majesty's coasts, his Royal Highness is persuaded that he affords an unquestionable testimony of his earnest endeavor to meet, as far as is possible, the wishes of the American Government, and practically to accomplish, in the amplest manner, the objects which they have in view. The free access to each of these tracts, cannot fail to offer every variety of convenience which the American fishermen can require in the different branches of their occupation; and it will be observed, that an objection, which might possibly have been felt to the acceptance of either of the propositions, when separately taken, is wholly removed, by the offer of them conjointly; as, from whatever quarter the wind may blow, the American vessels ingaged in the fishery, will always have the advantage of a safe port under their lee.

His Royal Highness conceives, that it is not in his Royal Highness's power to make a larger concession than that which is now proposed, without injury to the essential rights of his Majesty's dominions, and some of the chief interests of his Majesty's own subjects. But it will be a source of sincere satisfaction to his Royal Highness, if, in the arrangement, which I have the honor to submit, the citizens of the United States shall find, as his Royal Highness confidently believes that they will find, ample means of continuing to pursue their occupation, with the convenience and advantage which they desire.

I have the honor to be, with the highest consideration, Sir, &c.

CHARLES BAGOT.

The Secretary of State to Mr. Bagot.

DEPARTMENT OF STATE, *January 7th*, 1817.

SIR: I have had the honor to receive your letter of the 31st of December, proposing an accommodation of the difference between our governments, relative to the fisheries comprised in the first branch of the fourth article of the treaty of 1783, by the allotment of both the coasts, comprised in your former propositions.

Having stated in my letter of the 30th of December, that, according to the best information which I had been able to obtain, neither of those coasts had been much frequented by our fishermen, or was likely to be so in future, I am led to believe that they would not, when taken conjointly, as proposed in your last letter, afford the accommodation which is so important to them, and which it is very satisfactory to find it is the desire of your government that they should possess. From the disposition manifested by your government, which corresponds with that of the United States, a strong hope is entertained, that further inquiry into the subject will enable His Royal Highness the Prince Regent to ascertain, that an arrangement on a scale more accommodating to the expectation of the United States will not be inconsistent with the interest of Great Britain.

In the mean time, this government will persevere in its measures for obtaining such further information, as will enable it to meet yours in the conciliatory views which are cherished on both sides.

I have the honor to be, &c.

JAMES MONROE.

The Rt. Hon. CHARLES BAGOT.

Mr. Adams to the Secretary of State, dated London, 20th March, 1817.

SIR: The day before yesterday, I had an interview with Lord Castlereagh, when he informed me that the British government had come to a determination respecting the commercial part of the proposals for the negotiation of a further treaty, which I had made last September. That they were still not prepared to abandon their ancient colonial system, but they were willing to extend to the United States the benefits of the free port act, to the same extent that they were now enjoyed by the vessels of European nations, and to give a partial admission of our vessels to the island of Bermuda, and to Turk's Island. And, with regard to the intercourse between the United States and the adjoining British provinces, they would renew a proposal heretofore made, founded altogether upon the principle of reciprocity, which proposal he read to me, from a paper which he said was not quite finished, but which would be sent me in the course of the next day. Last evening I received a note from Mr. Hamilton, the Under Secretary of State in the Foreign Department, with a draft of four articles, a copy of which, hastily made, I now enclose, as Mr. Eve-

rett leaves town this morning. The part read to me by Lord Castlereagh was the fourth article, excepting the last paragraph.

I do not think it possible to make any thing out of these articles to which I can, under my present instructions, agree. I therefore enclose copies of them, with the request of immediate further instructions. Lord Castlereagh informed me, that they had received information that the act of Congress, prohibiting the clearance of foreign vessels for ports to which vessels of the United States are not admitted, had passed; and he repeated the assurance, that this government considered it as perfectly proper, and as giving them no cause of complaint or dissatisfaction. It seems to me, however, that the very slight and partial concessions in the enclosed articles, are intended to counteract its effects, and this opinion contributes to caution me against subscribing to them without your further orders. Lord Castlereagh's offer is to make them supplementary to the Convention of 3d July, 1815, and to be in force for the same time.

I am, with great respect,
Sir, your very humble and obedient servant,
JOHN QUINCY ADAMS.

ARTICLE 1.

His Britannic Majesty consents to extend to the United States the provisions of the Free Port Act, as established by the 45th Geo. 3d, c. 57, (except as far as relates to negro slaves, which, under the abolition acts, can no longer be lawfully exported from any British possession to any foreign country) that is to say, that any sloop, schooner, or other vessel whatever, not having more than one deck, and being owned and navigated by subjects of the United States, may import into any of the free ports in his Majesty's possessions in the West Indies, from the United States, any of the articles enumerated in the above act, being of the growth or production of the United States, and any coin, bullion, diamonds, and precious stones, and the said articles being of the growth or production of the United States; and also all other articles imported into the said free ports, by virtue of this convention, from the United States, shall be subject, in all respects, to the same rules, regulations, and restrictions, and shall enjoy the same advantages, as to re-exportation, as are now applied to similar articles when imported by authority of the said act, from any other foreign country, and re-exported from the said possessions of his Majesty. His Britannic Majesty further consents, that any vessel of the United States, as above described, may export from any of the said ports, to the United States, rum, of the produce of any British colony or possession, and also all manner of goods, wares, or merchandise, which shall have been legally imported into those possessions of his Majesty in which the said free ports are established, except masts, yards, or bowsprits, pitch, tar, and tur-

pentine; and also except such iron as shall have been brought from the British colonies or plantations in America.

And whereas, by an act passed in the 48th year of his Majesty's reign, cap. 125, rice, grain, and flour, are added to the articles previously allowed to be imported into the said free ports, it is agreed, that those articles may be imported from the United States into the said free ports, in vessels of the United States, as above described; and it is agreed, on the part of the United States, that any facilities granted in consequence of this convention, to American vessels in his Majesty's said colonies and possessions, shall be reciprocally granted, in the ports of the United States, to British vessels of a similar description, engaged in the intercourse so allowed to be carried on; and that if, at any future period, during the continuance of this convention, his Britannic Majesty should think fit to grant any further facilities to vessels of the United States, in the said colonies and possessions, British vessels trading between the said colonies and possessions and the United States, shall enjoy in the ports of the latter equal and reciprocal advantages.

It is further agreed, that articles imported into the said free ports of the United States, by virtue of this convention, shall pay the same duties as are or may be payable upon similar articles when imported into the said free ports from any other foreign country. And the same rule shall be observed on the part of the United States, in regard to all duties chargeable upon all such articles as may, by virtue of this convention, be exported from the said free ports to the United States. But his Britannic Majesty reserves to himself the right to impose higher duties upon all articles so allowed to be imported into the said free ports from the United States, or from any other foreign country, than are or may be chargeable upon all similar articles when imported from any of his Majesty's possessions.

ARTICLE 2.

His Britannic Majesty engages to allow the vessels of the United States to import into the island of Bermuda the following articles, to wit: Tobacco, pitch, tar, turpentine, hemp, flax, masts, yards, bowsprits, staves, heading boards, and plank, timber, shingles, and lumber of any sort; bread, biscuit, flour, pease, beans, potatoes, wheat, rice, oats, barley, and grain of any sort; such commodities being the growth or production of the territories belonging to the United States of America. And to export from the said island, to the United States, in vessels of the said States, any goods or commodities whatsoever, which are now by law allowed to be exported from his Majesty's colonies and possessions in the West Indies, to any foreign country or place in Europe. And also, sugar, molasses, coffee, cocoa nuts, ginger, and pimento; and, also, all goods, the growth, produce, or manufacture of the United Kingdom of Great Britain and Ireland, upon the same terms, and subject to the same duties

only, as would affect similar articles when imported from the United States into Bermuda, or exported from Bermuda to the United States, in British ships. And it is agreed, on the part of the United States, that a similar equality shall prevail in the ports of the said states, with regard to all British vessels trading in similar articles between the United States and the island of Bermuda.

ARTICLE 3.

It is agreed that vessels of the United States may resort to Turk's Island, for the purpose of taking in cargoes of salt, for the United States; and that the vessels, so resorting to the said islands, shall be allowed to import tobacco and cotton wool, the produce of the said United States, upon the same terms, and subject to the same duties as British ships when engaged in a similar intercourse. It is agreed, on the part of the United States, that a similar equality shall prevail in the ports of the said States, with regard to all British vessels trading in the same articles between the United States and the said Turk's Island.

ARTICLE 4.

It is agreed that the navigation of all lakes, rivers, and water communications, the middle of which is, or may be, the boundary between his Britannic Majesty's territories on the continent of North America, and the United States, shall, with the exception hereinafter mentioned, at all times be free to his Majesty's vessels, and those of the citizens of the United States. The inhabitants of his Britannic Majesty's territories in North America, and the citizens and subjects of the United States, may freely carry on trade and commerce, by land or inland navigation, as aforesaid, in goods and merchandise, the growth, produce, or manufacture of the British territories in Europe or elsewhere, or of the United States, respectively, within the territories of the two parties respectively, on the said continent (the countries within the limits of the Hudson's Bay Company only excepted,) and no other or higher duties, or tolls, or rates of carriage or portage, than which are, or shall be, payable by natives respectively, shall be taken or demanded on either side. All goods or merchandise, whose importation into the United States shall not be wholly prohibited, may freely, for the purposes of commerce, abovementioned, be carried into the said United States, in the manner aforesaid, by his Britannic Majesty's subjects; and such goods or merchandise shall be subject to no other or higher duties than would be payable by citizens of the United States, on the importation of the same in American vessels into the Atlantic ports of the United States; and, in like manner, all goods and merchandise, the growth, produce, or manufacture, of the United States, whose importation into his Majesty's said territories in America shall not be entirely prohibited, may freely, for the purposes of the commerce above mentioned, be carried into the same by land; or by means of such lakes,

rivers, and water communications, as abovementioned, by the citizens of the Untied States; and such goods and merchandise shall be subject to no other or higher duties than would be payable by his Majesty's subjects, on the importation of the same from Europe into the said territories.

No duty shall be levied, by either party, on peltries or furs, which may be brought, in the manner aforesaid, by land or inland navigation, from the said territories of one party into the said territories of another; but tolls, or rates of ferriage, may be demanded and taken, in manner above mentioned, on such peltries or furs.

It is further agreed, that nothing in this article contained, as to the navigation of rivers, lakes, or water communications, shall extend to give a right of navigation upon or within the same, in those ports where the middle is not the boundary, between his Britannic Majesty's territories and the United States of America.

Extract of a letter from Mr. Adams to Lord Castlereagh, dated

"28 *Craven-street, 21st April,* 1817.

"The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has received the four projected articles for a supplement to the Commercial Convention of 3d July, 1815, sent him by direction of Lord Castlereagh, and has transmitted them for the consideration of his government.

By a letter of instruction from the Secretary of State of the United States, of the 5th of February last, the undersigned is informed, that the negotiation between him and Mr. Bagot, in relation to the fisheries on the North American Coast, had not been brought to the desired result; that it is yet to be hoped, however, that it may be satisfactorily settled. That, with this view, it was the President's intention to renew the negotiation as soon as he could obtain the information necessary to ascertain what arrangement would be best calculated to reconcile the interests of both parties, which he hoped to do in the course of a few months. That, in the mean time, he relied that no measures would be taken by his Majesty's Government, to alter the existing state of things, and, particularly, that the order to the naval officer commanding on that station, not to interrupt or disturb the American fishermen during the approaching season, would be renewed.

The undersigned has the honor of renewing to Lord Castlereagh the assurance of his high consideration."

Extract of a letter from Lord Castlereagh to Mr. Adams, dated

FOREIGN OFFICE, *May 7th,* 1817.

"The undersigned, his Majesty's principal Secretary of State for Foreign Affairs, in reply to Mr. Adams's note of the 21st ultimo, has

the honor to acquaint him, that, as soon as the proposition which Mr. Bagot was authorized, in July last, to make to the government of the United States, for arranging the manner in which American citizens might be permitted to carry on the fisheries within the British limits, had been by them declined, viz. in the month of February, the same was immediately notified by his Majesty's Minister in America, to the British Admiral commanding at Halifax, the effect of which notification was to revive the orders which Mr. Bagot had taken upon himself to suspend, in the expectation that the discussions, in which he was then employed with the American government, would have led to a satisfactory issue.

These discussions having failed of success, and the orders above alluded to being consequently now in full force, the British government cannot but feel some reluctance again to suspend them, without being in possession of more precise grounds for expecting an adjustment. Persuaded, however, from the official communication received from Mr. Adams, that it is not only the sincere desire of the President of the United States to come to an amicable arrangement, but, also, that he, being already in possession of the views of Great Britain, is now led to entertain a strong expectation that a settlement, which shall reconcile the interests of both parties, may, without any material delay, be effectuated, the Prince Regent, under these impressions, is willing to give to the American government this additional proof of his earnest wish that the negotiation should proceed, under circumstances the most favorable to a speedy and amicable conclusion, by acceding to the application of the government of the United States, as brought forward by Mr. Adams. Instructions will, accordingly, be expedited to the naval commanders on the American station, to suspend the execution of the said orders, during the approaching season. Ample opportunity will thus be afforded for coming to an amicable arrangement, more particularly as it appears the American Secretary, in February last, had it in contemplation to offer, for the consideration of the British government, some specific proposition on the subject, which Mr. Bagot did not then feel himself authorized to take, ad referendum, but which he has since been instructed to receive, and transmit for the opinion of his court."

Mr. Rush, acting as Secretary of State, to Mr. Bagot.

DEPARTMENT OF STATE,

May 30, 1817.

SIR: I had the honor to receive, and have laid before the President, your note of the 27th of this month.

In answer to it, I have the honor to state, that this government is not yet prepared to make known, in any definite and final shape, the nature and extent of the accommodation desired by its citizens en-

gaged in the fisheries, along the coast of his Britannic Majesty's dominions, according to the invitation held out, by order of the Prince Regent, in your note. At the same time, I am directed by the President to inform you, that he recognises, in the terms of this invitation, not less than in the general scope of your note, a spirit of friendly accommodation, which this government, not foregoing rights which it feels itself bound to look to, will, nevertheless, be desirous, in the fullest extent, to reciprocate.

On the return of the President from a tour through part of the United States, which he is now upon the eve of commencing, it is expected that this department will be enabled to offer such propositions as, taking for their basis the principles stated in your note, it is confidently hoped, may end in an adjustment of this important interest, upon terms reconcileable with the views of both nations, and serve to strengthen the harmony and good understanding which it is so desirable to cultivate and preserve between them.

I have the honor to be, &c.

RICHARD RUSH.

The Rt. Hon. CHARLES BAGOT.

Mr. Rush, Acting Secretary of State, to Mr. Bagot.

DEPARTMENT OF STATE,

August 4, 1817.

SIR: It becomes my duty to address you upon a subject of deep interest to all those citizens of this country, who are concerned in the fisheries.

By representations made to this department, it appears, that, at the commencement of the present fishing season, twenty sail of fishing vessels, of from twenty-five to forty-five tons burden, belonging to ports of the United States, were fitted out, and sailed, for the purpose of fishing on the western bank. That, while on their way, a number of them were compelled by a storm to put into a harbor, at Ragged Island, near Shelburne light-house. That, while here, they were boarded by an officer of the customs, who demanded, and received light-money from them, notwithstanding the circumstances of compulsion and distress under which they had entered the port. That they afterwards proceeded to the bank, where, after remaining many weeks, they completed their fares of fish, and commenced their return to the United States. That, meeting with another severe storm, upon their return, they were again forced to seek shelter in a British port, a few leagues to the westward of Halifax. That in this port they were captured by an armed barge, despatched from the British sloop of war Dee, Captain Chambers, and the next morning ordered for Halifax, where they all arrived on the 9th of June. That the unfortunate crews have been exposed to peculiar inconveniences

and hardships, and that those who desired to return to their homes were refused passports towards facilitating that end, from the proper officers to whom they made application.

For further particulars connected with the above facts, I have the honor to enclose you an extract of a letter* to this department, from the Collector of Boston, dated June the 30th. It will be seen that it is not a case involving unsettled questions between the two countries in relation to the fisheries, but which it is so confidently hoped are in a train of satisfactory and amicable arrangement. It is, on the other hand, distinctly said, that the boats, far from taking a fish in any waters claimed as British waters, took them all at the distance of many leagues from the coast, while the other alleged facts would seem to forbid the imputation of their having entered a British harbor from any other than a lawful and necessary motive.

Should the facts as represented prove to be well founded, the President feels persuaded that your government will not fail to take such measures, as well towards redressing the evil complained of, in the present instance, as towards preventing the recurrence of one of the like nature, as are due to justice, and the harmony and good understanding which so happily subsist between the two nations.

I pray you, sir, to accept, &c.

RICHARD RUSH.

Mr. Bagot to Mr. Rush.

WASHINGTON, *8th August*, 1817.

SIR: I had yesterday the honor to receive your letter of the 4th instant, acquainting me with the representations which had been made to the Department of State, in relation to the seizure, by his Majesty's ship Dee, of certain American fishing vessels, found in the harbors of Port Negro and Ragged Island, upon the coast of Nova Scotia; and transmitting to me the extract of a letter upon the subject, from the Collector of the Customs at Boston.

Should the circumstances of this seizure, as they have been represented to the American government, prove to be correct, I can have no hesitation in giving you every assurance that his Majesty's government will, willingly, take measures for the prompt redress of the injuries to which it may have led, and for the prevention of their recurrence: but the representations which I have received upon the subject from the commander in chief of his Majesty's squadron on the Halifax station, differ so essentially in point of fact from those which have been made to the American government, that I have every reason to hope, that, upon a proper investigation of the transaction, it will not be found to involve any just cause of complaint.

I have the honor to transmit to you, enclosed, the copy of a letter from the Captain of his Majesty's ship Dee to the Commander of

* The letter referred to, is mislaid.

his Majesty's squadron on the coast of Nova Scotia, reporting the grounds upon which he had deemed it to be his duty to detain these vessels, together with a copy of the orders under which he has acted.

By these papers, you will perceive that the vessels in question were in the habit of occupying; and were, at the time of their seizure, actually occupying, for the purposes of their fishery, the settled harbors of his Majesty's dominions, in violation of the orders at all times enforced against all foreign vessels detected in making similar encroachments, and of which it is not to be supposed that the masters of these vesssels could have been ignorant.

The proceedings which have been instituted upon the captured vessels, will, necessarily, lead to a complete investigation of all the circumstances under which they were detained; and there can be no doubt that the merits of the whole case, which appear to rest altogether upon questions of fact, will be then fully ascertained.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant, CHARLES BAGOT.

By Sir David Milne, K. C. B. and K. W. N. Rear Admiral of the Blue, and commander in chief of his Majesty's ships and vessels employed, and to be employed, in North America, and on the lakes of Canada, &c. &c. &c.

You are hereby required and directed to proceed, in his Majesty's ship under your command, to Halifax, and, having received on board a pilot at that port, you will repair and cruise between Sambro light-house and Cape Sable, using every mean in your power for the protection of the revenue, as also the fisheries on the coast, against the encroachment of foreigners.

On your meeting with any foreign vessel, fishing, or at anchor, in any of the harbors or creeks in his Majesty's North American provinces, or within our maritime jurisdiction, you will seize and send such vessel, so trespassing, to Halifax, for adjudication, unless it should clearly appear that they have been obliged to put in there in consequence of distress; acquainting me with the cause of such seizure, and every other particular, to enable me to give all information to the lords commissioners of the admiralty.

You are to come within sight of signals from Sambro light-house every fourteen days, if the wind and weather will permit, and wait eight hours at that distance. You will continue on this service for six weeks from your sailing from Halifax, at the expiration of which time you will return to that port for further orders.

Given on board his Majesty's ship Leander, Bermuda, the 12th day of May, 1817. DAVID MILNE,
Rear Admiral.

To Capt. SAMUEL CHAMBERS,
His Majesty's ship Dee.

By command of the Rear Admiral.
8 J. P. LAMEY.

Captain Samuel Chambers, of his Britannic Majesty's ship Dee, to Rear Amiral Sir David Milne, &c. &c. dated

HIS MAJESTY'S SHIP DEE,
Off Shelburne, 8th June, 1817.

SIR: In compliance with your order of the 12th ultimo, I sailed from Halifax on the 30th ult. but did not meet or receive any intelligence of foreign fishing vessels being within our jurisdiction, until the 3d instant; when, being off the Isle Maten, I was informed that the whole of the Banks to the westward, (off Cape Sable and Shelburne,) were fished by American schooners; and that they continually resorted to the creeks on this coast in order to catch their bait, clean their fish, wood, water, &c.; this, of course, highly detrimental to the interest of the industrious fishermen on this coast. I was also informed, the intricate harbors of Cape Negro and the Ragged Islands were their resort most evenings, several going in; but more particularly on Saturdays, when they remain till Monday to procure bait for the ensuing week. At the former place they had not been well received; at the latter, I suspect, much encouragement had been given them by an individual. I intended having our boats into Ragged Island harbor before day-light on the 4th, but light winds prevented our getting that length. I, therefore, in the course of the day, put into Shelburne; and, in the evening, despatched the boats, under the charge of Lieutenant Hooper, into Ragged Island, with the order I enclose, the weather preventing any boats returning until the 7th, when I received information that nine American fishing vessels had been found at Ragged Island Harbor, laying with their nets set. Lieutenant Hooper remained at this place, and despatched Lieutenant Lechenere, with a gig and cutter, to Cape Negro, with the enclosed order. He found two American fishing vessels in the harbor, and seven others came in the course of Saturday. The whole joined me this day, with two others that came into Ragged Islands. I have, therefore, in obedience to your directions, sent them into Halifax for adjudication; as any distress they may plead, might, with more ease, be relieved at the regular harbor of Shelburne, which has been avoided for two intricate harbors in its immediate neighborhood.

I beg further to state, that, without the use of our harbors, it appears impossible for any foreigners to carry on successful fishing on this coast, which fishing has much injured our fishermen; and, I have every reason to believe, that considerable smuggling of tobacco, shoes, &c. is carried on by their boats. I beg leave to enclose a list of the detained vessels; and, also, to inform you, that, from some of the Americans attempting to tamper with some of our boats' crews, and the riotous conduct of others, I have been obliged to take precautionary measures to prevent any of the vessels being runaway with.

I have the honor to be, &c.
SAMUEL CHAMBERS, *Captain.*

Rear Admiral Sir DAVID MILNE, K. C. B.
Commander in Chief, &c. &c.

Extract of a letter from Mr. Adams, Secretary of State, to Mr. Rush, Envoy, &c., at London, dated Department of State, November 6, 1817.

A full power to conclude a commercial treaty is furnished you, together with your Commission and Credential Letters; and in your earliest communications with the British Secretary of State for Foreign Affairs, you will give him notice that you have such a power. Should he then, or at any subsequent time, *while the United States are at peace,* manifest, on the part of his government, a disposition to enter upon the negotiation, and be provided with similar powers, you will recur to the instructions given to the American Plenipotentiaries for the negotiation of the peace. In them, all the views of this Government, in relation to the proper regulation of maritime neutrality, are developed at large; and the President, still convinced that the principles there recommended, are the best adapted to promote the great and permanent welfare of all mankind, and the preservation of peace upon earth, is yet willing that the United States should be bound by them, when their occasional and temporary operation may be to their disadvantage: provided they can secure the *benefit* of them, when they shall hereafter be under circumstances to operate in their favor.

With regard to the strictly commercial part of the treaty, the principles for regulating the trade between the two countries during peace, you will recur to the same instructions to the Plenipotentiaries for the peace, to the Commercial Convention of 3d July, 1815, and to the instructions given to your predecessor, in reference to the negotiation of a commercial treaty; particularly, with regard to the intercourse between the United States and the British Colonies in the West Indies, and upon this continent.

Extract of a letter from Mr. Adams to Mr. Rush, dated Department of State, 21st May, 1818.

The other law to which I have called your attention, is an act concerning navigation, passed on the 18th, and published in the National Intelligencer of the 21st of April. It meets the British prohibitive Colonial system, by direct and countervailing prohibition, to commence from and after the 30th of September next. The vote upon its passage, in the Senate, where it originated, was all but unanimous; and in the House of Representatives, the opposition to it amounted only to 15 or 16 votes.

Although no formal communication of this law to the British government will be necessary, it may naturally be expected that it will be noticed in your occasional conversations with Lord Castlereagh. He will, doubtless, remember, and may be reminded of the repeated efforts made by this government to render it unnecessary, by an amicable arrangement, which should place on an equitable footing of re-

ciprocity, the intercourse between the United States and the British colonies; he will remember the repeated warnings given, that, to this result it must come, unless some relaxation of the British prohibitions should take place; and his own equally repeated admissions, that the exercise of the prohibitive right, on the part of the United States, would be altogether just, and would give no dissatisfaction whatever to Great Britain; you are, nevertheless, authorized to assure him, that the President assented to this measure with great reluctance; because, however just in itself it may be, its tendencies cannot but be of an irritating character to the interests which it will immediately affect; and because his earnest desire is to remove causes of irritation, and to multiply those of a conciliatory nature between the two countries. Such has manifestly been, on both sides, the effect of the equalizing and reciprocal provisions of the convention of July, 1815; and such, he has no doubt, would be the effect of the extension of its principles to the commercial intercourse between the United States and the British Colonies in the West Indies and on this continent; and you are authorized again to repeat the offer of treating for a fair and equitable arrangement of this interest. A further inducement for making this offer may be stated, in the expediency of looking forward, without further delay, to the expiration of the convention of 1815, which has now little more than one year to remain in force. It is important that the commercial part of the community, both here and in Great Britain, should have timely notice of the state in which the relations between the countries are to stand after the termination of that convention; and, as there are other objects of moment to be adjusted, the President desires you to propose an immediate general negotiation of a commercial treaty, to embrace the continuance for a further term of — years of the convention; and, also, the other subjects in discussion between the two governments: namely, the question concerning the slaves; that relating to the fisheries; the boundary line from the Lake of the Woods; and the Columbia river settlement. The President prefers taking this course to that of submitting to commissioners, at least immediately, questions upon which he thinks it probable the two governments may thus, by a shorter process, come to a mutual understanding between themselves.

If, upon making this proposal, the British government agree to this negotiation, the President proposes, that Mr. Gallatin and you should be authorized, jointly, as Plenipotentiaries, to conclude the treaty, which it is very desirable may be concluded in season to arrive here by the commencement of next Session of Congress, which is to be on the third Monday in November. Instructions will be transmitted immediately to Mr. Gallatin, to hold himself in readiness to repair to London, upon receiving notice from you, should Plenipotentiaries be appointed to treat with you; and, besides the instructions which formed the basis of the existing convention, and others, already in your possession, further documents will be forwarded to you as soon as possible, which may assist you in the management of the negotiation.

We entertain hopes, that this measure may result in a new treaty, which will remove most, if not all, of the causes of dissention between us and Great Britain. The satisfaction with which we have observed the avowal of the most *liberal* commercial principles, by Lord Castlereagh, in Parliament, has already been noticed in my last letter. The opening, if not of all, at least of a great portion of the ports of South America, to the commerce of the world, which, under every possible course of events, must be now considered as irrevocable; and the bill which, we perceive, was before Parliament, for establishing free ports in the British American colonies, all tend to convince us that Great Britain must see that a relaxation from her colonial restrictions has become the unequivocal dictate of her own interest.

Extracts of a letter from Mr. Adams, Secretary of State, to Mr. Gallatin, dated

DEPARTMENT OF STATE,
Washington, 22d May, 1818.

The present state of the relations between the United States and Great Britain has suggested to the President the expediency of proposing to the British government the negotiation of a treaty of amity and commerce, to embrace the continuance, for eight years longer, of the Commercial Convention of 3d July, 1815, and to attempt the adjustment of other objects interesting to the two countries, and upon which the governments have not yet been able to come to an agreement. It is desirable that this negotiation should take place in the course of the ensuing summer, and that its result should be transmitted here for the commencement of the next session of Congress, fixed for third Monday of November; for, as the convention, unless continued, will expire in July, 1819, and as it is due to the interests of the merchants, on both sides, affected by it, that early notice should be given, whether its provisions are to be continued, or to cease, it appears that no time is to be lost in bringing the question of its renewal or cessation to an immediate issue. As the motives for taking up the subject thus early are operative alike upon both parties; and as, in the event of the expiration of the convention of July, 1815, legislative measures, preparatory to that contingency, will doubtless be necessary, as well in Parliament as in Congress, it is expected that this proposal will be acceded to by the British government, and that plenipotentiaries on their part will be appointed to treat with you, and Mr. Rush, to whom, jointly, the President proposes to commit the trust of this negotiation.

A copy of the instructions forwarded to Mr. Rush, relating to this subject, is herewith enclosed, and the President desires that you would hold yourself, accordingly, ready to repair to London immediately upon receiving the notice from Mr. Rush that the British go-

vernment agree to the proposal, and have appointed, or are ready to appoint, plenipotentiaries to confer and conclude with you. Your long experience, and great knowledge of the subjects to be treated on, are the motives of the President for associating you in this commission. A full power for the negotiation is herewith enclosed; and further instructions and documents relating to it will be transmitted to Mr. Rush as soon as they can be prepared. Your necessary and reasonable expenses upon this special mission, will be allowed in like manner with those of a similar mission upon which you were employed last summer, in the Netherlands.

The President is willing that the convention of 3d July, 1815, should be continued for eight, or even ten years, as it stands. Its operation has indeed been, in some respects, disadvantageous to the United States, and favorable to Great Britain, owing to the revival of the interdiction of access to our vessels to the British West India and North American colonies, while our intercourse with them has been exclusively confined to British vessels. Yet, that the injury to our navigation and shipping interest has not been very essential, we have many indications.

The moral effect of the equalisation of duties, on both sides, in softening national asperities, has been unequivocal, and is an object of much importance, deserving to be cherished and improved by both governments. The encouragement which the convention has given to our trade with the British possessions in the East Indies, is more questionable, as that trade operates upon us as a continual and embarrassing drain of specie. But, as it has been a trade of profitable returns, and as it would still, to a great extent, be carried on with the native states of India, if we should be excluded, or our intercourse should be burthened and restricted with the British territories, the President will be satisfied to leave it as it is, and subject to the increasing competition of the British private traders with India, which will be likely to affect the interests of the British Company more than ours.

The other interests which the President hopes may be adjusted by this negotiation, are,

1. The intercourse with the British colonies in the West Indies and North America. You are well acquainted with the failure of the attempt to extend the convention of 1815 to this intercourse, at the negotiation of the convention, and at a subsequent period, when four additional articles were proposed on the part of Great Britain, a copy of which you have. There was reason to believe that Lord Castlereagh was personally well disposed to a more liberal expansion of the colonial intercourse, although the cabinet was not entirely prepared for it. The manner in which he has recently avowed a liberal commercial principle in Parliament, and the approbation with which that avowal was received; the obvious, though not declared, bearing which those sentiments had, both upon the South American contest, and upon the relations between the United States and the British colonies; the free port acts, which we understand have been introduced into

Parliament, and are even said to have passed, strongly and concurrently indicate that a change is taking place in the policy of the cabinet, on this subject; and we hope that now is precisely the favorable time for taking advantage of it. Our own navigation act may perhaps contribute to the same effect; and even should it operate otherwise, and confirm them in their obstinate exclusion of our vessels from those ports, as it will make their exclusion from ours to the same extent reciprocal, it leaves us the more free to agree to the renewal of the convention of July, 1815; if nothing more can be obtained.

2. Indemnity to the owners of the slaves carried away from the United States by British officers, after the ratification of the peace of Ghent, and contrary to a stipulation in the first article of that treaty.

Copies of the correspondence between the two governments, on this subject, are in the possession of Mr. Rush. They disagreed in their construction of the stipulation alluded to, and, each party adhering to its own view of it, a proposal was made, nearly two years since, on our part, to refer it to the arbitration of some friendly sovereign. This proposal, which Mr. Rush, upon his arrival in England, renewed, has now been accepted by the British government; but with a further proposal to refer it, and two other subjects, for arrangement, in the first instance, to commissions like those under the 4th, 5th, 6th, and 7th articles of the treaty of Ghent.

3. 4. These other subjects are, the boundary line from the northwest corner of the Lake of the Woods, westward; which you remember was all but agreed upon, and went off upon a collateral incident at Ghent; and our *title* to the settlement at the mouth of Columbia river.

The expediency of referring any of these questions to two commissioners, one belonging to each of the two countries, is very doubtful. With regard to the slaves, and to Columbia river, it can scarcely be expected that the commissioner of either party would ultimately entertain an opinion different from that already pronounced by his own government; and, if concession upon one point is to be made the condition of corresponding concession upon the other, it may, with more propriety, be effected by compromise between the two governments, than by judiciary powers given by them to individuals, under allegiance to the two countries themselves. As to the line from the Lake of the Woods, as some dissatisfaction has already been excited here by the expense occasioned by the two commissions already employed in settling the boundary, another commission to draw a line through the depth of the deserts, and to an indefinite extent, would be still more liable to censure; besides, the apprehension which it might raise, that the issue of the commission would be to bring the British territory again in contact with the Mississippi.

5. The fisheries.

The correspondence between the two governments, on this subject, leaves it still in the unsettled state in which it was left at the peace. Two proposals have been made, on the part of the British government, neither of which proving acceptable, a counter proposal

from us has been promised, and will be contained in the further detailed instructions which will be prepared and forwarded to Mr. Rush, to assist you in the conduct of the negotiation.

JAMES MONROE,

PRESIDENT OF THE UNITED STATES OF AMERICA:

To all whom these Presents shall concern, Greeting:

Know ye, That, for the purpose of perpetuating, between the United States and his Britannic Majesty, the harmony and good correspondence happily subsisting between them, and of removing all grounds of dissatisfaction, and reposing special trust and confidence in the integrity, prudence, and abilities, of Albert Gallatin, our Envoy Extraordinary and Minister Plenipotentiary at the court of France, and of Richard Rush, our Envoy Extraordinary and Minister Plenipotentiary at the court of the United Kingdom of Great Britain and Ireland, I have invested them with full and all manner of power and authority, for and in the name of the United States to meet and confer with any person or persons authorized by his Royal Highness the Prince Regent, acting in the name and behalf of his Majesty the King of the United Kingdom of Great Britain and Ireland, being furnished with like power and authority, and with him or them to agree, treat, consult, and negotiate, of and concerning the renewal of the Convention concluded at London, on the 3d of July, 1815, and concerning the general commerce between the United States and Great Britain and its dominions or dependencies, and such other matters and subjects, interesting to the two nations, as may be given to them in charge; and to conclude and sign a treaty or treaties, convention or conventions, touching the premises; transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the City of Washington, the twenty-second day of May, A. D. 1818, and of the Independence of the United States of America the forty-second.

[L. S.]

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS, *Secretary of State.*

Extract of a letter from Mr. Adams to Mr. Rush, dated

DEPARTMENT OF STATE, 30*th May*, 1818.

It is not our desire to embarrass the proposed commercial negotiation with any of the questions of maritime regulations adapted to a state of warfare. We do not wish that blockade, contraband trade with enemies or their colonies, or even impressment, should be drawn into the discussion, unless such a wish should be manifested on the British side.

Mr. Bagot has been informed that this negotiation will be proposed, and that, in the event of its being agreed to, another plenipotentiary will be

joined with you, to confer and conclude with those who may be appointed on the part of Great Britain. He is not aware that there will be any objection to it; but, if there should be any, and the British government should determine to keep the renewal of the commercial convention distinct from every other subject to be arranged between the two countries, you will, of course, not give the notice to Mr. Gallatin, to repair to London, mentioned in my last despatch. If the British cabinet agree to negotiate, it is hoped that the special instructions, to be prepared and forwarded to you, will reach you as soon as Mr. Gallatin will find it convenient to meet you in London. If the British cabinet prefer, by a single article, to renew the convention of July, 1815, for a term of eight, ten, or even twelve years, or any shorter period, your full power, heretofore given, will be still in force, and will enable you to conclude such an article, subject to the ratification here, by and with the advice and consent of the Senate.

Extract of a letter from Mr. Rush to Mr. Adams.

LONDON, *June* 26, 1818.

"In my interview with Lord Castlereagh, on the eleventh of this month, other subjects were treated than those I have already communicated, of which it is proper that I should now give a particular account.

In the foremost rank, stands impressment. A sufficient interval having elapsed, I asked his Lordship if any answer was made up on the proposal I had submitted on the eighteenth of April. He replied that he had brought it before the cabinet, where it had been considered with all the care which it merited. He proceeded to touch upon some of the principles and arguments to which the subject always leads. He adverted first, as connected with naturalization, to the opposite opinion which the two governments held upon the doctrine of allegiance. I said that I was aware of no opinions entertained by the government of the United States upon that point, except such as were sanctioned by the ancient and predominant authorities of law, as well as the general usage of Europe. He next observed that we gave to our ships a character of sovereignty which Great Britain did not; that we considered them part of our territory, clothing them with corresponding immunities. I said it was true, that we did consider our ships quite as inviolable as the soil, in the protection which they should afford to our seamen, whether native or naturalized; but that never had we, as a neutral, claimed to shield them from entry, under any of the just belligerant rights of search; that is, whether to look for persons in the land or naval service of a co-belligerant, articles contraband of war, or enemy's property. That these constituted the utmost limit to which the belligerant claim had ever been pushed. What we complained of, was, that Great Britain, passing them all, should enter a new field, and set up a right to enforce in our vessels, while navigating the high seas, her own municipal laws. His Lordship did not view it in this light, but spoke of the claim as one being established, and incontestible on the part of Great Britain. He said it became his duty to add, that, on a full consideration of the proposal, it had not been found practicable to forego, under any conventional agreement, the execution of which was to depend upon the legislative or-

dinances of another country, this right of looking for her subjects upon the ocean wherever she might be likely to find them.

From the broad ground of this decision, it became evident that there could no longer be any possible advantage in adhering to the course marked down in my despatch of the twentieth of April. This, it will be recollected, was not to disclose, in the first instance, all my powers. I therefore risked nothing in asking his Lordship what difference it would make, if the United States would agree to exclude from service, on board both of their ships of war and merchant vessels, all native born British subjects.

He replied, that this, indeed, would be going a step further; but that it would still leave the proposal within the principle of their objection. That the objection, in short, went to the full length of an unwillingness to concede, by treaty, the right of entering the vessels of a foreign power, to look for their subjects, whatever its terms.

I now remarked that I heard this determination with regret; as I was ready to accede to a stipulation, on the part of my government, bottomed on the unqualified exclusion of all natives from both branches of our service, and I feared also, that this would exhaust all the offers which it had to submit. I begged that he would, in fact, consider such an offer as distinctly made, and under full authority. He promised to do so.

Every proposal which it fell within the compass of the United States to put forward, being gone through, I asked, in turn, if it had occurred to his Lordship to hold out any overtures on the part of the British government. I reiterated, in forcible terms, the assurance that there prevailed, throughout the United States, one universal wish, with government and people, to see removed the sources of a dispute which concerned so seriously both nations. But I found that he was prepared with none which did not assume the right of previously entering our ships. For the judicious and safe exercise of this right, Great Britain, he said, was willing to enter into the most effective regulations, such as restricting the boarding officers to those of a rank not below lieutenants, giving responsible receipts for the men taken out, or any other safeguards which the American government might propose, as better adapted to the end. That she would always be ready to receive, and in the most friendly manner discuss, proposals of this description, under the hope of some practicable arrangement growing out of them.

I did not hesitate to say, that the United States would never admit, by convention, a right to enter their vessels for such a purpose as impressment. It would be to surrender principles which they held too sacred, besides that its exercise, however attempted to be softened, must necessarily be liable, from circumstances intrinsic and insurmountable between the two nations, to perpetual and the most fatal abuse. His Lordship, while repeating the inability of Great Britain to abandon by compact her ancient right, again frankly admitted the evils of which it had been the parent, and which he hoped never to see revived. He added that it would be her anxious desire in future, hoping that the day of necessity for its actual exercise was far distant, to free it as much as possible from abuse, and that, in particular, it would be much the more sparingly brought into activity, if the American government, by adopting, of its own accord, such legislative ordinances as I had proposed, would thus inspire a confidence, that, at all events, but few of her subjects would find their way into American ships.

It will be supposed that I alluded to the unequal ground upon which

such a course would place the United States. If they consented to pass laws of this nature, it might reasonably be expected that they must see their way to an equivalent in some stipulation, on the part of Great Britain, of ascertained and positive value, and that no other would be stamped with that character but an agreement not to enter their ships.

Although I explicitly made the proposal of a willingness not to employ in our service even her native subjects, I did not think it right that it should rest upon the footing of a verbal offer. The less did I think this would be prudent, from observing an inclination in his lordship's mind, towards the close of our conversation, to consider what had passed as wearing an informal, rather than any other character, inasmuch as it had been productive of no results. I removed this impression, by new and unequivocal declarations that it was to be regarded differently. In conformity with them, I put into his hands, on the 20th of this month, the paper marked No. 2, which accompanies this despatch. In delivering it, I desired that he would consider it as altogether and strictly official. It was true, I said, the proposal which it embraced had already been rejected; but I knew so well the anxiety of the President upon this great point, as to feel sure that I should be more truly the organ of his will by putting it in a shape in which it might go among the archives of this government, and would add, in the further hope, that, possibly, other views might, in other times, be taken of it. On receiving the paper with this remark, his lordship said he would lay it before the cabinet on his return from Ireland, whither he was soon to go, and that, perhaps, it might be thought advisable to put in writing the objections and counter opinions of Great Britain.

In this abortive manner has the attempt ended. I have endeavored to recount, with all possible accuracy, what has transpired, and trust, that, in no material point, have I misunderstood the communications of this government. It places upon record another, and an earnest effort, to settle this great and formidable controversy. The failure is the more to be deplored, as the attempt has been made during a season of profound peace, and when the two governments seem well disposed towards each other. The United States have again done all that they could towards allaying it. They declare that they want not British seamen in their vessels. They engage to exclude them by all the means that human laws can devise. In a spirit of extreme conciliation, they go farther in their offers than the obligations of co-equal sovereignty, or the policy and habits of their internal system, might, in the judgment of all, be thought to dictate. Whilst they concede so much, Britain will yield nothing. She remains rigid and inexorable. She will not meet half way. She will not turn a step from her course. To an alleged right, but which has often been demonstrated to be utterly without support, in any one principle that the society of nations has ever recognised—unless the dicta of English common lawyers make up the great and universal code of public law—does she continue to cling, in the mere ambitious and wilful reliance upon an unchecked career in her naval supremacy. It is upon such foundations that she virtually threatens the indefinite continuance of a practice more afflicting to humanity, as far as the scale extends, than was ever the African slave trade, and in the highest degree insulting to the rights and dignity of an independent and powerful nation.

The subject of impressment being, I fear, finally disposed of, as one of negotiation between the two governments, Lord Castlereagh next reminded me, that it was now but little more than a twelve-month from the time

fixed for the expiration of the commercial convention of 1815. He asked if I knew the views of my government, in regard to its renewal. I replied that at present I did not, with precision. He requested that I would consider his question as intended to draw my attention specially to the subject, and expressed some anxiety to have information at as early a day as convenient.

I anticipate the probability of the expression of some sentiments to me, from the Department, in the course of the present summer, in relation to this convention. How far our act, bearing upon their colonies, is to operate on the question of renewal, or if objectionable in its existing provisions, in what respects modifications are to be insisted upon, are points on which I am not instructed. I am aware that it is already made my duty to obtain and transmit information upon which, perhaps, a final opinion on the merits of the convention was expected, in part, to rest. Of this duty, I have not been unmindful. But it is proper I should state, that my efforts, for reasons that will be explained in a future despatch, do not promise as much success as I had hoped. Besides inquiries among individual merchants, wherever it has come within my power to make them, I addressed, in March, a letter to each one of our Consuls within the European dominions of this country. Answers are, from time to time, dropping in; but neither from them, and still less from my personal inquiries, is it likely that I shall derive information, either so full or so accurate, on the effects of the cessation of all discriminating duties, as to be of any decisive or even great account, in making up a judgment. In the next place, although I will take care that what I do obtain is transmitted in time for the session of Congress, in November, the period which my instructions seem to contemplate, it would be desirable, I am sure, to this government, to be furnished sooner, if possible, with an intimation of the intentions of ours, in relation to this compact.

If it is to be suffered to run out without renewal, Great Britain having positively declined forming a treaty with us which shall include her colonies, upon what footing are the commercial relations of the two countries to stand? Will each be left to its own regulations, as sometimes heretofore, or is any substitute to be proposed? These are points on which I should feel happy to receive information, whenever it may be thought fit to impart it."

Extract of a letter from Mr. Rush to the Secretary of State, stating a conversation between himself and Lord Castlereagh, dated

LONDON, *July 25th*, 1818.

"I entered next upon the subject of the commercial relations between the two countries. Remarking upon the change produced in them by the prohibitory act of the last session of Congress, now soon to commence its operation, I observed that I had it in charge to say, that the President had yeilded his assent to that act with reluctance; for that, however just, its tendencies might be of an irritating nature to the individual interests that it would affect on both sides, whilst it was his constant desire to give efficacy to measures, mutually more beneficial and conciliatory. It was, therefore, that I was once more authorized and instructed to propose to this

government the negotiation of a general treaty of commerce. That the President had, besides, agreed that there should be comprehended in the negotiation other matters heretofore desired to be treated of, by this government, as well as points in which the government of the United States took a particular interest; being in the whole, 1. The question respecting the slaves carried off from the United States, in contravention, as alleged, of the treaty of Ghent. 2. The question of title to the settlement at the mouth of Columbia river. 3. The question of the northwestern boundary line, from the Lake of the Woods; and, 4th, That of the fisheries. Upon these topics, the President, I added, preferred treating in a direct way, in the first instance, in the hope that the two governments might arrive at a just understanding, without resorting to Commissioners; and that, if this government was prepared to go into all of them, including, especially, a general treaty of commerce, another Plenipotentiary had been contingently appointed on the part of the United States, to meet, with me, any two that might be designated on the part of Great Britain.

His Lordship asked what he was to understand by a general treaty of commerce. I replied, a treaty that should lay open not a temporary, or precarious, but a permanent intercourse with their West India Islands and North American colonies, to the shipping of the United States, as often before proposed, but which, after the recent refusals, it might seem almost unnecessary again to bring into view, were it not that other objects, of interest to both nations, were now associated with it in a way to clothe the proposition with a new aspect.

He answered that the British government would certainly be willing to enter upon a negotiation on the commercial relations of the two countries, but that he had no authority to say that the colonial system could be essentially altered; broken down it could not be. I said, that if it was not to be departed from, or in no further degree than the four articles had imported, as those articles had already been rejected, it did not appear to me that any advantage would be likely to arise from going into the negotiation. He replied that he was not prepared to answer, definitively, upon all, or any of the points, but would lay them before the Cabinet, and let me know the result. He professed, earnestly, in the course of the conversation, the desire which this government had to see the commerce of the two countries stand upon the best footing of intercourse, the stake to each being so great, and promising, with the growth of the United States, to be so much greater.

In the event of a negotiation, upon the grounds I had explained, not being opened, he asked if I could inform him what the intentions of my government were relative to the commercial intercourse between the countries; it being, for obvious reasons, desirable soon to know.

Here I did not hesitate to announce that, in such an event, which I still hoped would not be the case, it was willing simply to renew the existing convention of 1815, thus keeping this instrument distinct from all other questions of a commercial nature, if the British government preferred it. This communication, I thought, he received with evident satisfaction. He remarked, that it would rescue the commercial relations from all danger of a chasm, and made known, in immediate reply, the readiness of his government to acquiesce in such a course.

On the 22d I received a note from him, requesting to see me again at the Foreign Office on the 23d. I was there accordingly. Mr. Robinson, who is now a member of the cabinet, as well as president of the board of

trade, was present. It was the first occasion upon which any third person had been associated with lord Castlereagh, at any of our official interviews.

His lordship commenced by saying that he had laid my proposals before the cabinet, and that it had been agreed to enter upon the general negotiation; that is, one which should embrace all the points I had stated. In relation to the great commercial question, he begged I would understand, that the British government did not pledge itself beforehand to a departure from its colonial system, in a degree beyond what it had already offered; but that it was sincerely desirous to make the attempt, and unequivocally wished to bring the whole commercial relations of the two countries into view, willing to hope, though abstaining from promises, that some modification of that system, mutually beneficial, might be the result of frank and full discussions renewed at the present juncture. I replied, that I knew my government would hear this determination with great satisfaction. That it would cordially join in the hope, that the new effort might be productive of advantage to both countries, and strengthen the ties of good intercourse that should unite them.

I now informed him that Mr. Gallatin, the present minister from the United States at Paris, would take part in the negotiation, and come over to London as soon as it would be convenient to say that plenipotentiaries would be appointed on the part of Great Britain. He said, the sooner the better; and that Mr. Robinson and Mr. Goulburn would be named to treat with us. His lordship said, that he himself would be obliged to set out for the continent, to attend the European Congress, by the 20th or 25th of next month, but that the negotiation could go on in his absence. He intimated a wish, however, that it might open, if practicable, before he went away. I answered, that all the necessary powers and instructions, from our government, had not yet reached us, but that we were in daily expectation of them.

He next asked whether, in order to guard against all possible delays that might be incident to the general negotiation, which was to embrace so many points, I was prepared to agree, at once, to a renewal of the convention of 1815, for a term of years to be agreed on; declaring that the British government was ready, at any moment, to concur in such agreement.

I answered, without reserve, that I was already in possession of a full power to this effect, which, independently of other objects, might be carried into execution.

I wrote, yesterday, to Mr. Gallatin, to apprise him of the necessity of coming over, the contingency which was to bring him having happened. From the answer I have received to my letter to him of the second of this month, I think it probable that he will be here in three weeks, or sooner, so that, if our full powers arrive, the negotiation may be opened before Lord Castlereagh's departure. Should Mr. Gallatin concur, we will make the renewal of the convention for eight, ten, or twelve years, our first act. This, I hope, the President will approve. The reasons that operate with me, are, 1. It will not only provide against delays, but all uncertainties in the result, of the possibility of which we are forewarned simultaneously with the desire expressed to enter the field of negotiation. It is not only important that there should be no chasm in the commercial relations between the countries, but equally so, that our merchants should have timely notice that there will be none. 2. Every inquiry that I have made among merchants from the United States, with whom I have been able to confer,

in this city, has produced the most unequivocal opinions, that this convention is working well for us, which entirely falls in with the communications I have received from the Department. 3. Taking this for the fact, it seems naturally to follow, that it is our part to consent to the renewal the moment Britain says she will, lest the day should go by. On this head, I will just state, that I have heard, through a respectable source, that there are already some British ship owners, in Liverpool, who talk of petitioning their government against its renewal. Lastly, my power to renew, seems to me, from your despatch of the thirtieth of May, to be complete, nor will its exercise thwart, in any degree, our prospect of a more enlarged treaty under the general negotiation."

Extract of a letter from Mr. Adams to Messrs. Gallatin and Rush, dated Department of State, 28th July, 1818.

"In the expectation that the government of Great Britain have accepted the proposal which Mr. Rush was instructed to make, for negotiating a treaty of commerce, embracing the continuance of the convention of 3d July, 1815, for an additional term of years, and including other objects of interest to the two nations, I have now the honor of transmitting to you the President's instructions to you for the conduct of the negotiation.

With regard to the commercial convention of 3d July, 1815, you have already been informed that the President is willing that it should be continued without alteration for a further term of eight or ten years. We had flattered ourselves, from the liberal sentiments expressed by Lord Castlereagh in Parliament, and from various other indications, that the British Cabinet would have been now prepared to extend the principles of the convention to our commercial intercourse with their colonies in the West Indies and North America; but, from the report of two conferences between Mr. Rush and Lord Castlereagh, since received, it appears that our anticipations had been too sanguine, and that, with regard to our admission into their colonies, they still cling to the system of exclusive colonial monopoly.

Our navigation act, passed at the last session of Congress, is well calculated to bring this system to a test by which it has not hitherto been tried; and if the experiment must be made complete, so that the event shall prove to demonstration which of the two countries can best stand this opposition of counter exclusions, the United States are prepared to abide by the result. Still, we should prefer to remove them at once, if for no other reason than that it would have a tendency to promote good humour between the two countries. We wish you to urge this argument upon the British Cabinet; to remind them of the principles avowed by Lord Castlereagh in Parliament, to which I have before referred, and of their precise bearing upon this question. It may also be proper to suggest, that, while Great Britain is pressing upon Spain the abandonment of her commercial mono-

poly, throughout the Continent of South America, her recommendation must necessarily gain great additional weight by setting the example with her own colonies, while at the same time her own interest in her monopoly must be reduced to an object too trifling for national consideration, when the Spanish colonies shall be open to the commerce of the world. Finally, it may be observed, that the free-port act, passed at the late session of Parliament, goes already so far towards the abandonment of their system, that it can scarcely be perceived why they should adhere to the remnant of it any longer. Other arguments may occur to your own reflections, and result from your thorough knowledge of the subject; you will urge them with earnestness, though giving it always to be understood that we shall acquiesce in their ultimate determination.

Whenever this subject has been presented to the British cabinet, since the peace, their only objection to the proposals and arguments of the United States, has been, that their system has been long established. Lord Castlereagh has invariably acknowledged his own doubts whether it was wise, or really advantageous to Great Britain; but placed the determination to preserve it upon the single ground of its having long existed. Whatever weight there is in this reasoning, it would bear in favor of all those other exclusions which he congratulated Parliament and the country at having been abolished, as much as in support of this. It is the argument of all existing abuse against reformation; of mere fact against reason and justice. The commercial intercourse between the United States and the West Indies is founded upon mutual wants and upon mutual convenience; upon their relative geographical position; upon the nature of their respective productions; upon the necessities of the climate; and upon the convulsions of nature. When the British ministry say—against all this our ancestors established a system, and therefore we must maintain it; we may reply, if your ancestors established a system in defiance of the laws of nature, it is your interest and your duty to abolish it. But who can overlook or be blind to the changes of circumstances since the establishment of the system—to the irresistible consequences of the establishment and growth of the United States as an independent power—to the expulsion of the French from St. Domingo—to the revolution in progress in the South American provinces? Every system established upon a condition of things essentially transient and temporary, must be accommodated to the changes produced by time.

Besides the Free-port Act, a printed copy of which has now been received from Mr. Rush, and which, we find, is limited to ports specially to be appointed by the Crown, in the Provinces of Nova Scotia and New Brunswick, we have seen in the public journals a bill for permitting a certain trade between the British West Indies and *any colony or possession in the West Indies, or on the continent of America, under the dominion of any foreign* EUROPEAN *sovereign or state.* This measure appears intended to counteract the effects of our late Navigation Act, and gives further manifestation of the adherence of the Bri-

tish government to their colonial exclusions. It is the President's desire that nothing should be omitted which can have the tendency to convince them that a change would promote the best interests of both countries, as well as the harmony between them. Should your efforts prove ineffectual, we can only wait the result of the counteracting measures to which we have resorted, or which may be found necessary hereafter.

In carrying the convention of 3d July, 1815, into execution, the British government have sanctioned the practice, with regard to some of the foreign tonnage duties, first, to levy them, as if the convention were not in force; and then, upon petition of the persons interested, to have them returned. If this practice cannot be given up altogether, it will be necessary that some regulation should be adopted, by which the extra duties shall be returned, of course; and without putting the parties to the trouble, and expense, and delay, of obtaining it by petition. At present, unless the petition is presented, the duties are not returned. It happens sometimes, that masters of vessels pay the duties, without knowing that they are entitled to have them returned; in which case, they are lost to them, or their owners. It will be proper, therefore, to require the adoption of some general regulation, in virtue of which, it shall be made the duty of the officers of the customs to repay the extra duties, in all cases in which they shall have been levied, without exposing the individual to lose his right by his own ignorance, or by the negligence or infidelity of his consignee.

2. Slaves.

The British government have accepted the proposal of referring to the decision of some friendly Sovereign, or State, the question concerning the slaves carried away from the United States, by British officers, after the ratification of the peace. They propose, however, a previous reference of it to two commissioners, appointed like those under the 4th, 5th, 6th, and 7th articles of the treaty of Ghent, and to proceed with similar powers; and committing to the same commissioners the power of fixing, definitively, the boundary between the United States and the possessions of Great Britain, westward, from the northwest corner of the Lake of the Woods; and of pronouncing upon the right of the United States to the settlement on the shores of the Pacific Ocean, at the mouth of Columbia river. These objects are so entirely different from one another; the principles, the character of the evidence, and the reasoning, which must lead to the result, are so disconnected and incongruous, that, if submitted at all to commissioners, it is obviously proper to refer them to different commissions. The question concerning the slaves, is a question of construction upon the terms of the first article of the treaty; and the two governments having already discussed it, each, after discussion, adhering to its own opinion, there is little prospect that either of the commissioners will come to a conclusion different from that of his

own government. The present offer of the British government, connecting it with another question of boundary, bears the appearance of a disposition to make it an affair of compromise, and that they are willing to concede something to us on one of the points, upon condition of a concession from us upon the other. If this be their object, these mutual concessions may be made with more convenience by direct and immediate agreement between the two governments, and by an article of the treaty, than by the means of commissioners, whose functions are rather of the judicial than the ministerial character, and whose duties are to decide, and not to compromise.

3. *Boundary, from the Lake of the Woods, westward.*

By the second article of the treaty of peace, of 1783, the boundaries of the United States, after having been traced from the northwest angle of Nova Scotia to the most northwestern point of the Lake of the Woods, are pursued "from thence, on a *due west* course, to the "*river Mississippi;* thence, by a line to be drawn along the middle "of the said river Mississippi, until it shall intersect the northern-"most part of the thirty-first degree of north latitude."

By the fourth article of the treaty of 1794, it was declared to be uncertain whether the river Mississippi extended so far to the northward as to be intersected by a line due west from the Lake of the Woods; and a joint survey of the river, from one degree below the Falls of St. Anthony to the principal sources of the said river, and of the parts adjacent thereto, was stipulated; and if, on the result of the survey, it appeared that the river would not be intersected by the line, the parties were to regulate the boundary line by amicable negotiation, according to justice and mutual convenience, and in conformity to the intent of the treaty. This joint survey never took effect.

By a convention, signed on the 12th of May, 1803, by Mr. King and Lord Hawkesbury, but which was not ratified, it was agreed that the boundary should be by a line from the northwest corner of the Lake of the Woods, by the shortest line, until it touched the river Mississippi. Until then, the Mississippi river had been the western boundary of the United States. The cession of Louisiana gave them a new and extensive territory westward of that river.

In the negotiation of 1807, between Messrs. Monroe and W. Pinkney, and the Lords Holland and Auckland, there were three successive draughts of articles for the settlement of this boundary. The first proposed, on the British side, (art. 5, page 198, documents,) was a line due west from the Lake of the Woods, along the 49th parallel of north latitude, as far as the territories of the United States extend in that quarter, and the line, *to that extent*, was to form the boundary; with a proviso, that the article should not be construed to extend to the northwest coast of America, or to territories westward of the Stoney Mountains.

The second proposed, on the part of the United States, (page 202,)

took a line due north or south, as the case might be, from the most northwestern point of the Lake of the Woods, until it shall intersect the 49th parallel of north latitude, and then, due west, along that parallel, for the boundary between the territories of the parties; with the proviso, excluding the northwest coast, and all territories westward of the Stoney Mountains.

The third was agreed to by both parties; and varied from the second only by an additional clause, purporting that this should be the boundary, *as far as the respective territories of the parties extend in that quarter.*

That convention was not ultimately concluded. At the negotiation of the peace of Ghent, the 8th article of the first projet presented by the American Plenipotentiaries, was a transcript from this article last above mentioned; and the article proposed by the British Plenipotentiaries on returning the projet, was the same as that which had been first proposed by Lords Holland and Auckland; with an additional paragraph, stipulating free access to British subjects, through the territories of the United States, to the Mississippi, and the free navigation of that river. In the conferences that ensued, the substance of the article, so far as it regarded the boundary, was agreed to on both sides; but, as the American Plenipotentiaries could not accede to the additional paragraph, the article was, finally, altogether omitted.

From the earnestness with which the British government now returns to the object of fixing this boundary, there is reason to believe that they have some other purpose connected with it, which they do not avow, but which, in their estimation, gives it an importance not belonging to it, considered in itself. An attempt was at first made by them, at the negotiation of Ghent, to draw the boundary line from Lake Superior to the Mississippi. But, as they afterwards not only abandoned that pretension, but gave up even the pretension to an article renewing their right to the navigation of the Mississippi, it was to have been expected they would thenceforth have considered this western boundary of no importance to them. The new pretension, however, of disputing our title to the settlement at the mouth of Columbia river, either indicates a design, on their part, to encroach, by new establishments of their own, upon the forty-ninth parallel of latitude, south of which they can have no valid claim upon this continent, or it manifests a jealousy of the United States; a desire to check the progress of our settlements, of which it might have been supposed that experience would, before this day, have relieved them. Their projects for the line, both in the negotiation of Messrs. Monroe and Pinkney, in 1806, and at Ghent, in 1814, were to take the 49th parallel of latitude, from the Lake of the Woods, west, as far as the territories *of the United States* extend in that direction, with a caveat against its extension to the South Sea, or beyond the Stoney Mountains, upon which two observations are to be made: first, that it is uncertain whether any part of the Lake of the Woods is in latitude 49; and, secondly, that they always affected to apply the indefinite

limit of extension "*as far as the territories extend*," to the territories of the United States, and not to those of Great Britain, leaving a nest egg for future pretensions, on their part, south of latitude 49. The counter projects for the line, on our part, therefore, at both those negotiations, were, from the northwest corner of the Lake of the Woods, the point already fixed and undisputed, a line due north or south, as the case may be, to the 49th parallel of latitude, and thence, along that parallel, due west, as far as the territories of *both parties* extend in that direction, and adopting the caveat against extension to the Pacific, or beyond the Stoney Mountains.

4. *Settlement at the Mouth of Columbia River.*

From the late correspondence with the Spanish Minister Onis, it appears that the claim of Spain, upon the shores of the South Sea, extends to the 56th degree of north latitude: but, there is a Russian settlement in 55, besides a temporary lodgment connected with it as far south as 42. The pretensions of the British Government may, on this occasion, be disclosed. We know not precisely what they are; nor have they explained the grounds or the motives upon which they contest our right to the settlement called Astoria, formed before the late war, and broken up by the British sloop of war Racoon in the course of it. The papers enclosed, marked from A to I, contain all the information material to the subject, possessed by this Department. It appears that, at the time when the American settlement was broken up during the war, the property was purchased by certain agents of the British Northwest Company: this, however, could in no manner divest the United States of their jurisdiction. As the British Government admit, explicitly, their obligation, under the first article of the Treaty of Ghent, to restore the post, there can be no question with regard to the right of the United States to resume it. We do not perceive how or why this question should be referred to two commissioners of the respective nations; and, as Russia herself has pretensions on that Coast, it deserves the consideration of both parties, whether the ultimate determination, in the almost unavoidable case of a difference between the Commissioners, could, with propriety, be referred to her Sovereign. Mr. Rush has been instructed, in the event of a final difference between the Commissioners, under the existing commissions, to propose the Emperor of Russia as the Sovereign to whose decision the reference, stipulated on that contingency in the treaty, should be made. It cannot be doubted, that he was the Sovereign contemplated by both parties, at the time when the treaty was concluded; and it might be difficult to designate any other in whom the confidence of both parties would be so strong and clear, as to secure their cordial acquiescence in his decision.

The expedient itself, of submitting questions of territorial rights and boundaries, in discussion between two nations, to the decision of a third, was unusual, if not entirely new; and, should the contingency

occur, will probably encounter difficulties of execution, not foreseen at the time when the stipulation was made of resorting to it. The subjects in controversy are of a nature too intricate and complicated, requiring on the part of the arbitrator a patience of investigation and research, historical, political, legal, geographical, and astronomical, for which it is impossible to conceive that the sovereign of a great empire could *personally* bestow the time.

These ideas are suggested with a view to recommend the attempt rather to come to an agreement between the parties themselves, upon all objects which have not been thoroughly discussed between them, than to cast their difficulties upon commissioners who can scarcely be expected to agree concerning them, and then upon a foreign sovereign, of whose personal integrity no doubt can be entertained, but, who cannot have leisure to sift the subjects in dispute to the bottom.

On the whole, the President will be well satisfied if these three objects: of indemnity for the slaves carried away; of the western boundary from the Lake of the Woods; and of the settlement at the mouth of Columbia River, can be adjusted by this negotiation, rather than referred to commissioners, which must be expensive, and so constituted as to make it at least probable that they will decide nothing, and then to a friendly sovereign, still at great expense, and other inconveniences to both parties. With regard to the slaves, the question which it was proposed should be submitted to the decision of an impartial arbitrator, was merely on the construction of one paragraph, in an article of the treaty of Ghent. This was so simple, and requiring so little research or investigation of any kind, that it might have been decided immediately by the sovereign himself, upon an inspection of the article, and a short statement of the facts to which both parties would have agreed. But the delineation of an unsettled boundary, across the western deserts of this continent; the title to establishments on the Pacific Ocean, where the arbitrator himself is not without his pretensions; and where, save pretensions, there is no object to any party worth contending for; to create burdensome commissions, and make solemn references to a foreign sovereign, for these, appears scarcely to be necessary, if altogether justifiable. As to the line from the Lake of the Woods, you are authorized to agree to that which was agreed upon by the Plenipotentiaries on both sides, in 1807; but not to any line which would bring the British in contact with the Mississippi; nor to any thing which would authorize the British to trade with Indians within the boundaries of the United States. Of the inconveniences of allowing such trade, even by licences, a recent instance has occurred, copies of the papers relating to which are transmitted to you.

5. *Fisheries.*

The proceedings, deliberations, and communications, upon this subject, which took place at the negotiation of Ghent, will be fresh in the remembrance of Mr. Gallatin. Mr. Rush possesses copies of

the correspondence with the British government, relating to it, after the conclusion of the peace, and of that which has passed here between Mr. Bagot and this government. Copies of several letters received by members of Congress during the late session, from the parts of the country most deeply interested in the fisheries, are now transmitted.

The President authorizes you to agree to an article, whereby the United States will desist from the liberty of fishing and curing and drying fish within the British jurisdiction *generally*, upon condition that it shall be secured as a permanent right, *not liable to be* impaired by any future war, from Cape Ray to the Ramian Islands, and from Mount Joli, on the Labrador coast, through the Strait of Belle Isle, indefinitely, north, along the coast; the right to extend as well to curing and drying the fish, as to fishing.

By the decree of the Judge of the Vice Admiralty Court at Halifax, on the 29th of August last, in the case of several American fishing vessels which had been captured and sent into that port, a copy of which is also now transmitted to you, it appears that all those captures have been *illegal*. An appeal from this decree was entered by the captors to the Appellate Court in England, and the owners of the captured vessels were obliged to give bonds to stand the issue of the appeal. Mr. Rush was instructed to employ suitable counsel for these cases, if the appeals should be entered, and, as we have been informed by him, has accordingly done so. If you do not succeed in agreeing upon an article on this subject, it will be desirable that the question *upon the right*, should be solemnly argued before the Lords of Appeals; and that counsel of the first eminence should be employed in it. Judge Wallace agreed with the Advocate General, that the late war completely dissolved every right of the people of the United States acquired by the treaty of 1783. But it does not appear that this question had been argued before him, and the contrary opinion is not to be surrendered on the part of the United States, upon the *dictum* of a Vice Admiralty Court. Besides this, we claim the rights in question not *as acquired* by the treaty of 1783, but as having always before enjoyed them, and as only recognised as belonging to us by that treaty, and therefore never to be divested from us but by our own consent. Judge Wallace, however, explicitly says, that he does not see how he can condemn these vessels, without *an act of Parliament*. And whoever knows any thing of the English Constitution, must see that on this point he is unquestionably right. He says, indeed, something about an order in council, but it is very clear that would not answer. It is a question of forfeiture for a violated *territorial* jurisdiction; which forfeiture can be incurred, not by the law of nations, but only by the *law of the land*—there is obviously no such law.

The argument which has been so long and so ably maintained by Mr. Reeves, that the rights of antenati Americans, as British subjects, even within the kingdom of Great Britain, have never been divested from them, because there has been no act of Parliament to declare it, applies, its fullest force, to this case; and, connected with the article in the

treaty of 1783, by which this particular right was recognised, confirmed, and placed out of the reach of an act of Parliament, corroborates the argument in our favor. How far it may be proper and advisable to use these suggestions in your negotiation, must be left to your sound discretion; but, they are thrown out with the hope, that you will pursue the investigation of the important questions of British law, involved in this interest; and that every possible advantage may be taken of them preparatory for the trial before the Lords of Appeal, if the case should ultimately come to their decision. The British government may be well assured, that not a particle of these rights will be finally yielded by the United States without a struggle, which will cost Great Britain more than the worth of the prize.

These are the subjects to which the President is willing that your negotiation should be confined. With regard to the others of a general nature, and relating to the respective rights of the two nations in times of maritime war, you are authorized to treat of them, and to conclude concerning them, conformably to the instructions already in possession of Mr. Rush; or, if the difficulty of agreeing upon the principles should continue as great as it has been hitherto, you may omit them altogether.

You will not fail to transmit, by duplicates, the result of your conferences, at as early a period as may be found practicable."

Extract of a letter from Mr. Adams to Mr. Gallatin, dated Department of State, 29th July, 1818.

"This letter is merely to request you, in case the British government should have accepted the proposal for that negotiation, and if you should be still in Paris when you receive it, to repair, without delay, to London, for the purpose of entering upon the negotiation. It is hoped you will be able to finish it, and to transmit the result here for the meeting of Congress on the third Monday in November."

Extract of a letter from Mr. Rush to the Secretary of State, dated London, August 13, 1818.

"On the day before yesterday I received a letter from Mr. Gallatin, dated the 6th of this month. He informs me that the full powers have got to hand, and that he expects to be here on the sixteenth.

"The prospect of opening the negotiation before the departure of Lord Castlereagh, seems therefore now to be good. I went yesterday to the Foreign Office to request that the proper orders may be expedited to Dover, for the entrance of Mr. Gallatin, his family, and baggage, into the kingdom, without molestation or delay."

Extract of a letter from Mr. Rush to the Secretary of State, dated London, August 15, 1818.

"On the evening of the 13th, I received a note from Lord Castlereagh, requesting me to call at the Foreign Office yesterday at four o'clock. I went accordingly, when a conversation took place, which I proceed to relate:

The ostensible object of the interview was to say to me, that some circumstances would prevent the Congress assembling at Aix-la-Chapelle earlier than the 20th of September, which would make it unnecessary for him to go away quite as soon as he had originally contemplated. He was glad of this, he added, as it would insure to him an opportunity of being present here when the negotiation, so soon to take place, between the two countries, commenced. I informed him of our full powers having been received, and of the expectation I now had of Mr. Gallatin's arrival in a day or two. He subjoined a few words as to the formal manner in which it appeared to him best that the negotiation should move along, and also to apprise me, that, although he expected to go into the country to-morrow, he would be in town again on the 25th. Here, this part of the conversation closed.

He next surprised me agreeably by reviving the subject of impressment, which I thought had been blotted out from our conferences. He began by premising that what he was going to say was confidential, and, for the present, without the knowledge of his colleagues in the administration. That he had reflected much, and anxiously, upon my late proposals, which, it was true, had, as they now stood, been rejected. But feeling anew the importance of this subject to the future harmony of the two countries, and willing, if possible, not to let it be shut out from the general negotiation upon the eve of opening, it had occurred to him to offer some suggestions in relation to it, barely to see how they struck my mind, and know if there would be a motive to pursue them. He went on to say, that his own impression was, protesting that, as yet, he was not authorized to say it was that of his government, that the proposals might be rendered acceptable by some modifications very important to Great Britain, and not at all so, as he supposed, to the primary object in view by the United States. The modifications were these:

1. That any treaty or convention, built up upon the proposals as I had submitted them, should be limited in duration; say to eight, ten or twelve years, with liberty to each party to be absolved from its stipulations, on a notice of three or six months; as in the late arrangement respecting the reciprocal dismantlement of naval armaments upon the lakes.

2. That the British boarding officer, entering American ships at sea, for a purpose justified under the laws of nations, should have the liberty of calling for the list of the crew; and, if he saw a seaman known to him, or on good grounds suspected to be an Englishman, that he should have the further privilege of making a record, or pre-

cés verbal, of the fact, in such way as to have the case distinctly brought under the notice of our government, though by no means withdrawing the man from the ship.

The latter regulation, his lordship observed, would operate as a further incentive to the faithful execution of our home prohibitions for excluding British subjects from our vessels; and the former, guard against any irrevocable relinquishments by Great Britain, which the opinions, or even prejudices of the country might not, upon trial, be found to bear.

I naturally infer that this government, reviewing its late decision, and seeing, at last, the unexceptionable and perfect fairness of the offers of the United States, has made up its mind to abandon, in effect, the great principle, or, at least, practice, to which, with an injustice so tenacious, it has long clung: that of forcing the man from under the sacred cover of our flag; and that ground has been broken in the above interview, to the consummation of a change so auspicious in the councils of this nation. The first modification seems to me unobjectionable. The second is open to considerations which I do not at all like; yet it comes as a first suggestion, and we may therefore hope to get rid of it altogether. As Mr. Gallatin will be here so soon, I forebore to offer to his lordship any opinion, not feeling myself now at liberty to speak upon the subject singly; but joining, nevertheless, in the renewed anxiety to see it brought within the pale of our approaching discussions, and stating that I thought fair ground was laid for its admission. I take leave of the subject, therefore, until my endeavors, jointly with those of Mr. Gallatin, shall be resumed upon it, having been first led to this communication for the President's early information on a question of so much interest. My despatch of the 26th of June will show that some intimation was thrown out, at that time, of an intention on the part of this government, to give, in writing, its objections to our propositions; instead of which more just views of them would happily seem to have risen up."

Extract of a letter from Mr. Rush to the Secretary of State, dated London, August 28th, 1818.

"Mr. Gallatin got here on the 16th of this month. On the following day, I addressed a note to Lord Castlereagh, announcing his arrival. His Lordship was at his country seat, thirteen miles from London, but invited us to an informal conference there on the 22d. We went accordingly, and remained all night. Nothing could have been more cordial than the reception given to us. Mr. Robinson and Mr. Goulburn were present. The several subjects of the negotiation were talked over in general terms, and in a spirit which, we think, promises well for the friendly manner in which, at all events, it will be conducted.

The full powers of Mr. Robinson and Mr. Goulburn having, in the mean time, been made out, our first official meeting took place yesterday, at the Office of the Board of Trade. Nothing of importance passed, beyond a recapitulation of the points which the two governments desire to bring into discussion, and some attempts to settle the order in which the negotiation should proceed. The points consist of all such as have been given in charge to us, and which have been heretofore mentioned in my despatches, including impressment, and other maritime questions incident to a state of war.

I content myself at present, with stating, thus generally, for the President's information, that the negotiation has opened. What relates to its progress, will, I presume, no longer be expected from me singly, but in joint communications with Mr. Gallatin.

I ought not to omit to mention, that the point of impressment was brought forward by Lord Castlereagh, at the first interview, held at his house on the 22d. The next meeting takes place to-morrow.

There are some of the points which must stand still until we are in possession of our further instructions."

Extract of a letter from Mr. Rush to the Secretary of State, dated LONDON, *October 12th*, 1818.

"At the joint meeting which took place on the ninth, nothing decisive was determined upon. Premising that no opinion which I give at this stage of the negotiation must be taken as at all binding, I will barely say, that I think the prospect of coming to any agreement on an article regulating our trade with the West Indies, grows more and more faint. We are to have another conference to-morrow."

Extract of a letter from Mr. Rush to the Secretary of State, dated LONDON, *October 19th*, 1818.

"I hasten to communicate to you, for the information of the President, that, at a conference we have this day had with the British Plenipotentiaries, from which I have just returned, it has been agreed to conclude a treaty, comprehending an arrangement of the following points:

1st. The fisheries. 2d. The northwestern boundary line. 3d. That about Columbia river. 4th. The question of slaves; and 5th. A renewal, for ten years, of the present commercial convention.

The treaty will probably be reduced to form and signed to-morrow."

Mr. Rush to the Secretary of State.

LONDON, *October* 27, 1818.

SIR: I had the honor to write you a few lines on the 19th instant, and immediately forwarded them in triplicate to the Consul at Liverpool, to be sent off by the earliest ships, to say that we had on that day agreed to sign a treaty with the British plenipotentiaries on the points which I enumerated. It was signed on the 20th. The joint despatch from Mr. Gallatin and myself bearing date on the same day, giving an account of the whole progress of the negotiation, was, together with the convention itself, and all the accompanying documents, forwarded from hence to Liverpool on the 24th.

After consulting with Mr. Gallatin, I did not feel at liberty to employ a special messenger to be the bearer of the convention, trusting to the ordinary opportunities by our merchant vessels, which are so constant, and in general so safe. I accompanied the packet with a special letter to Mr. Maury, apprizing him of the importance of committing it to hands that were trust-worthy, and with directions that it should be delivered to the post-master at NewYork, or wherever else the ship may arrive, without any delay. It will thus, I hope, reach Washington with all expedition and safety. On the side of the British plenipotentiaries, a special Secretary was employed for the business of this negotiation. On ours, Mr. Smith has acted; a circumstance which is alluded to, only that I may add, how unremitting has been his attention, and how useful his services. Mr. Gallatin set out on his return to Paris, on the morning of the 22d. Duplicates of the convention, the despatch, and all the other papers, will be transmitted at the earliest moment that they can be copied.

After what is said in your despatch of the 28th of July, to the joint mission, respecting Judge Wallace's decree, on the 29th of August, 1817, at Halifax, in the cases of the captured fishing vessels, it is proper I should state, that I have been informed, by Mr. Slade, in a note of the 14th of this month, that no appeal has been entered, by the captors, from the sentences of restitution; and that, the time having now gone by, allowed by the practice of the Admiralty for entering appeals, none can be entered. He adds, that as the owners of the vessels were obliged to give bail, at Halifax, to answer the appeals, it is possible that they may also have been made to place counter security in the hands of the bail; in which case, the bail may refuse to part with such security, without *a desertion* from the Appellate Court here; that is, a decree that the Appeals had not been prosecuted, and that the orignal sentence should be carried into effect. But as such a decree would be attended with expense, he does not advise it, for the present. In the event of its becoming necessary to the owners, they should be informed that they cannot have the benefit of it, until office copies of the decrees of restitution, at Halifax, are first forwarded. Mr. Slade is the proctor whom I employed, contingently, to give attention to these cases, as mentioned in my despatch of the 21st of March.

From the instructions of the 28th of July, I infer, that government contemplated becoming instrumental to the solemn argument of the great question of right under the treaty of '83, only in the event of no article respecting the fisheries being agreed upon. As one has been signed, I design to take no further steps on this head, should the convention be ratified, without further instructions from the Department. I mention this, perceiving, from the newspapers, that there have been fresh captures of our fishing vessels during the last season, followed by sentences of condemnation, from which, appeals, on the part of the claimants, may, I take it for granted, be anticipated.

With very great respect,
I have the honor to be, &c.
RICHARD RUSH.

Mr. Adams to Messrs. Gallatin and Rush.

DEPARTMENT OF STATE,
Washington, 2d November, 1818.

GENTLEMEN: From the despatches which, since I last had the honor of writing to you, have been received at this Department, from Mr. Rush, dated the 24th and 26th of June, and the 15th of August, it appears that there are two subjects likely to be brought under consideration in your conferences with the British plenipotentiaries, which were not contemplated by the President, at the time when your former instructions were prepared—impressment, and the slave trade.

Impressment.

In the notes No. 1 and 2, delivered by Mr. Rush to Lord Castlereagh, the first on the 18th of April, and the second on the 20th of June, both the offers had been made to the British government, warranted by his former instructions, of legislative measures for excluding British seamen from the naval and merchant service of the United States, on condition of a formal stipulation on the part of Great Britain, that the impressment of men from the vessels of the United States shall henceforth cease.

Both these proposals, at the time when they were offered, or shortly afterwards, had been rejected, with an intimation from Lord Castlereagh to Mr. Rush, in the latter instance, that the objections of the British cabinet against them would be presented in writing.

Afterwards, however, on the 14th of August, he expressed his willingness that the subject should be taken up in the proposed negotiation of a commercial treaty, and avowed, as an opinion of his own, upon which he had indeed not consulted with his colleagues in the cabinet, that these proposals might, with certain modifications, which he thought very important to Great Britain, and of little moment to

the essential object of the United States, be rendered acceptable. These were: 1. That the treaty containing the stipulation should be limited to a duration of ten or twelve years, with liberty to each party to be absolved from its stipulations, on a notice of three or six months. 2. That the British boarding officer, entering American ships at sea, for a purpose justified under the laws of nations, should have the liberty of calling for a list of the crew, and, if he saw a man whom he knew, or suspected of being an Englishman, he should, without taking the man, have the privilege of making a record, or procés verbal of the fact, to be presented to the consideration of the American government.

These suggestions have received the fullest and most deliberate consideration of the President, with the earnest disposition, on his part, to view them in the most favorable light. He welcomes them, especially, as the first indications of a consciousness in the British cabinet that the permanency of peace between the two countries is utterly incompatible with the resumption of the practice of impressing men from our vessels on the high seas: A conviction so profoundly impressed upon his own mind, that he scarcely thinks any discouragement could justify a remission of our efforts to remove this inevitable cause of future collisions, so long as the practice hitherto persevered in shall continue to exist.

It is readily agreed that the treaty to contain the stipulation shall be limited in duration, to eight, ten, or twelve years; but that either party should have the liberty of putting an end to the whole treaty, by a notice of three or six months, would seem to place the whole commercial relations between the two countries, upon too precarious a foundation. Some of the stipulations proposed in your negotiation are, in their nature, intended to be permanent, even in the event of a war; others would require legislative regulations to protect interests, which would be deeply affected by the sudden termination of the treaty. The President, nevertheless, authorizes you to agree, that, besides the general limitation of the temporary articles of the treaty to eight, ten, or twelve years, either party shall be at liberty to dissolve them after a notice of two years given to, and received by, the other; or, if preferable to the British government, the article relative to impressment may be made a separate article, distinct from the rest of the treaty, and limited to a term of four years. This course would, indeed, be most convenient, as it would give us the opportunity of taking the sense of the Senate upon it, without implicating it with the other parts of the treaty. Our intention and expectation is, that, the practice of taking men from our ships being once formally renounced by Great Britain, she will, in point of fact, never recur to it again.

If the intention of Lord Castlereagh was, that this right of dissolving the compact, by a notice of three or six months, should apply only to the article against impressment, its acceptance is objectionable on other grounds. The engagement to exclude all British seamen from our sea service, will operate, immediately from its com-

mencement, with some inconvenience to our merchants. Since the peace, and the dispersion of the vast number of seamen disbanded from the British navy, there are, no doubt, considerable numbers of them who have found employment on board of our vessels; and their exclusion from them will not be accomplished without some inconvenience. The effect of the stipulation of Great Britain, to take no men from our vessels, is remote, and contingent upon the event of her being engaged in a maritime war with other powers. The onerous part of the engagement, is, therefore, to us, immediate and certain; the benefit to be derived from it, distant and eventual. If to this apparent inequality should be added, a power reserved by Great Britain, to cancel the bargain by a simple notice of three or six months, we could scarcely consider it as a contract. It would be a positive concession and sacrifice, on our part, for the mere chance of a future equivalent for it, altogether dependant upon the will of the other party. The alternatives now proposed, it is hoped, will answer the purpose intended, by the expedient suggested by Lord Castlereagh, without being equally liable to the difficulties which arrest our assent to it, otherwise than as thus modified. It would also be desirable, that the commencement of the engagement to exclude British seamen should be postponed for some time, say to the 1st of October, 1820, that a sufficient notice may be given to the merchants and mariners whose interests will be affected by it.

The second proposal, that British officers, entering our merchant vessels, for purposes warranted by the law of nations, shall be authorized to call for the list of the crew, and if they should find, or suspect, an Englishman to be on board, make a record of the fact, for the purpose of remonstrance to the government of the United States, is, in the view of the President, still more objectionable. In the first place, the distrust which it implies, that the laws for excluding British seamen will, though stipulated, not be faithfully executed, is not warranted by any experience; nor can this government give countenance to it, by assenting to any stipulation which would be considered as resulting fom it. If the United States bind themselves to this exclusion, they will sincerely and faithfully carry it into execution. It was not expressly asked by Lord Castlereagh, in his proposal, as reported by Mr. Rush, that the officer, in calling for the shipping paper, should also have the power of mustering the crew, to examine them by comparison with the list; but as the mere view of the list would be useless, unless coupled with that power, we consider it as having been intended to be included in the proposal; and this very inspection of the crews of our vessels, by a foreign officer, has been found among the most insulting and grievous aggravations of the practice of impressment. Besides this, the tendency of such an examination, in every single instance, would be, to produce altercation between the British officer and the commander of the American vessel. If the officer should be authorized to make a record of his suspicions, the master, on his side, and the suspected seamen, must, of course, have the privilege of making their counter record;

and as there would be no tribunal to judge between them, the probable ultimate result could be no other than that of exciting irritation between the two nations, and fractious discussions between the governments.

If the engagement to exclude British seamen from our service should fail of being executed to an extent worthy of the slightest attention of the British government, they could not avoid having notice of it, by proofs more effectual and more abundant than could be furnished by this sort of scrutiny; a failure of execution on our part to any such extent, would give them not only the right of remonstrating to ours, but even of cancelling their obligation within a lapse of time, which must guard them against the danger of any material national injury. We have the fullest confidence that, if the engagement on both sides be once contracted, Great Britain will thenceforward have no lawful or even plausible motive, either for wishing it cancelled, or for inspecting the crews of our vessels in search of men.

Slave Trade.

The President desires that you would make known to the British government his sensibility to the friendly spirit of confidence with which the treaties lately contracted by Great Britain with Spain, Portugal, and the Netherlands, and the legislative measures of Parliament founded upon them, have been communicated to this government, and the invitation to the United States to join in the same, or similar arrangments, has been given. He wishes you also to give the strongest assurances that the solicitude of the United States for the accomplishment of the common object—the total and final abolition of that odious traffic, continues with all the earnestness which has so long and so steadily distinguished the course of their policy, in relation to it. As an evidence of this earnestness, he requests you to communicate to them a copy of the act of Congress of the last Session, in addition to the act of 1807, to prohibit the importation of Slaves into the United States: (acts of the last Session, chap. 86, p. 81,) and to declare the readiness of this government, within their constitutional powers, to adopt any further measures which experience may prove to be necessary for the purpose of obtaining so desirable an end.

But you will observe, that in, examining the provisions of the treaties communicated by Lord Castlereagh, all their essential articles appear to be of a character not adaptable to the institutions or to the circumstances of the United States.

The power agreed to be reciprocally given to officers of the ships of war of either party to enter, search, capture, and carry into port, for adjudication, the merchant vessels of the other, however qualified and restricted, is most essentially connected with the institution, by each treaty, of two mixed courts, one of which to reside in the

external or colonial possessions of each of the two parties respectively. This part of the system is indispensable to give it that character of reciprocity without which the right granted to the armed ships of one nation, to search the merchant vessels of another, would be rather a mark of vassalage than of independence. But to this part of the system, the United States, having no colonies either on the coast of Africa or in the West Indies, cannot give effect.

You will add, that, by the constitution of the United States, it is provided, the judicial power of the United States shall be vested in a supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. It provides that the judges of these courts shall hold their offices during good behaviour; and that they shall be removable by impeachment and conviction of crimes or misdemeanors. There may be some doubt whether the *power* of the government of the United States is competent to institute a court, for carrying into execution their penal statutes beyond the territories of the United States, a court consisting partly of foreign judges, not aminable to impeachment for corruption, and deciding upon the statutes of the United States without appeal.

That the disposal of the negroes found on board the slave trading vessels which might be condemned by the sentence of these mixed courts, cannot be carried into effect by the United States; for, if the slaves of a vessel condemned by the mixed court should be delivered over to the government of the United States as freemen, they could not, but by their own consent, be employed as servants, or free laborers. The condition of the blacks being, in this union, regulated by the municipal laws of the separate states, the government of the United States can neither guaranty their liberty in the states where they could only be received as slaves, nor control them in the states where they would be recognised as free.

That the admission of a right in the officers of foreign ships of war to enter and search the vessels of the United States in time of peace, under any circumstances whatever, would meet with universal repugnance in the public opinion of this country. That there would be no prospect of a ratification by advice and consent of the Senate, to any stipulation of that nature. That the search by foreign officers, even in time of war, is so obnoxious to the feelings and recollections of this country, that nothing could reconcile them to the extension of it, however qualified, or restricted to a time of peace. And that it would be viewed in a still more aggravated light, if, as in the treaty with the Netherlands, connected with a formal admission that even vessels under convoy of ships of war of their own nation should be liable to search by the ships of war of another.

You will, therefore, express the regret of the President, that the stipulations in the treaties communicated by Lord Castlereagh are of a character to which the peculiar situation and institutions of the United States do not permit them to accede. The constitutional objection may be the more readily understood by the British Cabinet, if they are reminded that it was an obstacle proceeding from the

same principle which prevented Great Britain from becoming, formally, a party to the Holy Alliance: neither can they be at a loss to perceive the embarrassment under which we should be placed, by receiving cargoes of African negroes, and be bound at once to guaranty their liberty, and to employ them as servants. Whether they will be as ready to enter into our feelings, with regard to the search, by foreign navy lieutenants, of vessels under convoy of our own naval commanders, is, perhaps, of no material importance. The other reasons are presumed to be amply sufficient to convince them that the motives for declining this overture are compatible with an earnest wish that the measures, concerted by these treaties, may prove successful in extirpating that root of numberless evils, the traffic in human blood; and with the determination to co-operate, to the utmost extent of our powers, in this great vindication of the sacred rights of humanity.

JOHN QUINCY ADAMS.

Extract of a letter from Mr. Rush to the Secretary of State, dated

LONDON, *December 8th*, 1818.

"The despatch of the second of November, addressed to Mr. Gallatin and myself, arrived here on the 6th instant.

Of the subjects to which it relates, viz. impressment and the slave trade, the Department will have been long since informed, by our joint communications, that only the former had a place in the late negotiation. As we came to no agreement on it, I am happy to think that none of the expectations of the President will have been departed from. It will also have been seen, that, had this despatch reached us before the negotiation closed, although it would have affected our conduct on one of the points, the result would have been the same. I design to transmit a copy of it to Paris, for Mr. Gallatin's information."

Extract of a letter from Mr. Adams to Mr. Rush, dated

DEPARTMENT OF STATE,
Washington, 1st December, 1818.

Your despatches, to No. 36, inclusive, have been received at this office. Of the various subjects to which they relate, and which appear to require particular notice, I propose now to take a review, according to the successive order of their dates.

The first is No. 22, dated 19th June, and enclosing your correspondence with Lord Castlereagh, relative to a passage in a printed report of a Committee of the House of Representatives of the United States, to that body, mentioning the rejection, by the President, of

the four articles which had been proposed by the British government as additions to the Commercial Convention of 3d July, 1815, and approving that rejection, upon an idea, entertained by the Committee, that the fourth of those articles would have interfered with the settled policy of the United States in relation to the Indians within their limits. This remark of the Committee, appears to have affected the sensibility of the British cabinet, upon two grounds: first, as they considered that the rejection of those articles had not been previously communicated to them; and, secondly, because they thought the article in question did not bear the construction, and they explicitly disclaimed the intention that it should bear such a construction, as the committee of Congress had thought applicable to it.

With regard to the first point, the explanation which ensued between you and Lord Castlereagh, appears to have placed it in the proper point of view. The articles had been presented to your predecessor as embracing the utmost extent which the British government would consent to give to our commercial intercourse with their colonial possessions in this hemisphere. Before your departure from this country, the President had made up his mind not to accept them, and your instructions had authorized you to make this determination known to the British government in the manner which it was supposed would be most friendly and conciliatory. The articles had been delivered without any accompanying document, note, or commentary, and as it was not believed here that they could, under any modification, be made the basis of an arrangement between the two governments, upon the subject to which they relate, and as it was given us explicitly to understand that Great Britain could concede [illegible]e of relaxations to her colonial and navigation system, [illegible]t useless to enter into discussion, of which there was no [illegible]t would terminate in agreement, and which might tend [illegible], and that the most inoffensive manner of communicating the non-acceptance of the articles, would be, verbally, in a personal interview between yourself and Lord Castlereagh. On reference to your report of your first conference with him, on the third of January, it appears that the part of your instructions to which I allude, was then executed; and that, without using the unaccommodating term of *rejection*, you communicated to him the disposition of the President, with regard to the four articles, in a manner altogether congenial to the spirit of that formula of the British constitution, by which the dissent of the crown is signified to an act which has passed both Houses of Parliament. Le Roy s'avisera. There was, indeed, so little of ambiguity in the intimations given by you at that time, that when, before the receipt of your despatch, No. 22, Mr. Bagot came to me with a copy of Lord Castlereagh's note to you of 29th May, which had been sent to him, I recurred immediately to the file of your despatches, and read to him that part of your report of what passed between you and Lord Castlereagh, at your conference on the third of January, observing to him, that I had little imagined, after that disclosure of the President's sentiments concerning the four articles, that the British government would have expected any further reference to them on the part of the United States.

A copy of the four articles was furnished to the committee of the House of Representatives, charged with the duty of reporting to the House upon the state of the commercial relations between the United States and the British West Indies. That committee drew their own conclusions upon the probable operation of the articles, and particularly of the fourth. They were communicated to them without comment, on the part of the Executive. They knew the articles had not been accepted, but the reasons of the non-acceptance had not been stated to them. It is true, that the article was the same, which, at the negotiation of the commercial convention of July, 1815, had been offered by the British plenipotentiaries; that the objection to it, now suggested by the committee, had, at that time, been avowed by those of the United States; that the British Plenipotentiaries did then disclaim the intention of giving it a construction which would import the admission of British traders to any intercourse with Indians within the territories of the United States; and did offer to introduce into the article any words which might be necessary to guard it against that construction; and that the article was then finally declined upon another ground. But the same reason for declining it still subsists, and is now as operative as it was in 1815; and, if it did not occur to the committee, it was because the other, being more obvious upon the face of the article, as presented to them, doubtless struck them more forcibly, as of itself decisive, and needing no further notice of objections less important, though not less insuperable.

In the negotiation with which you are now occupied, for the renewal and extension of that compact, we have not altogether abandoned the hope, that the British cabinet will, ultimately, concede something further of principle; and, if this article should be discussed in your conferences, that they will consent to remove the other feature of exclusion from it, which still renders it inadmissible. Your powers will enable you to agree to it with such modifications as may divest it both of the exceptionable construction disclaimed, and of the restrictive exclusion yet adhered to by Great Britain.

The Secretary of State to Mr. Rush.

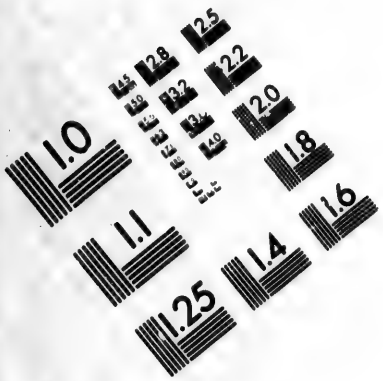
DEPARTMENT OF STATE,

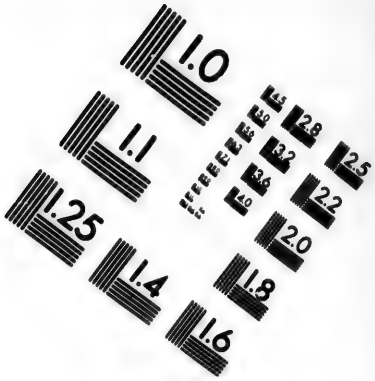
Washington, 7th May, 1819.

SIR: From the documents transmitted by Mr. Gallatin and you, relating to the negotiation of the commercial convention of 20th October last, it appears—

That, at the third conference, a draught of two articles was proposed by the American Plenipotentiaries, for regulating the commercial intercourse between the United States, and, 1, the British Islands in the West Indies, and, 2, the provinces of Nova Scotia and New Brunswick, in North America.

That at the fifth conference, the British Plenipotentiaries offered the





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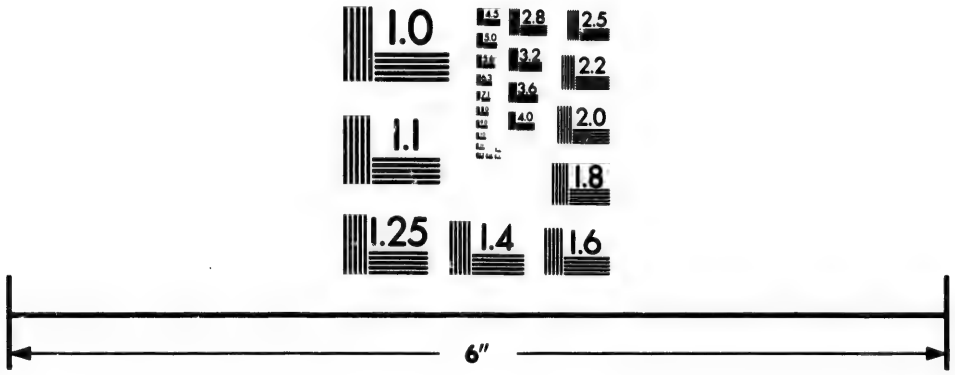

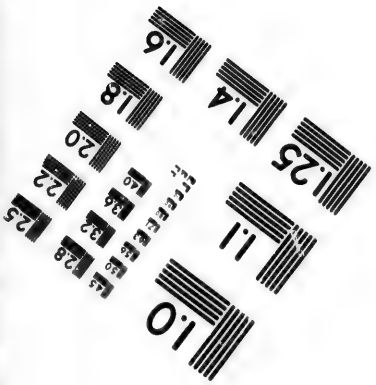

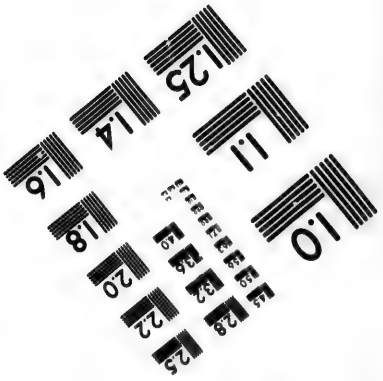

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counter projet of an article for the intercourse between the United States and Nova Scotia and New Brunswick; and at the eighth conference, an article for that between the United States and the British West Indies.

That, in presenting this last article, they stated that they could not consent to sign an article upon that subject, unless the American Plenipotentiaries would accede, in substance, to the article proposed at the fifth conference concerning Nova Scotia and New Brunswick, and to an article proposed by the British government, on the 19th of March, 1817, concerning the trade between the United States and the Island of Bermuda.

And that the American Plenipotentiaries, not feeling themselves authorized by their instructions to sign the West India article as proposed by the British Plenipotentiaries, agreed to take the whole question, ad referendum, to their government.

In comparing the West India article, proposed by the American Plenipotentiaries, at the third conference, with that offered by the British Plenipotentiaries, at the 8th, it appears:

1. That, in the American projet, the ports in the West Indies, proposed to be opened to American shipping, are specifically named; while in the British projet, they are only designated as the ports which shall be open to the vessels of any other foreign power or state. It is observed, in your joint letter of 20th October, that these ports are the same as those proposed by the American projet, with the exception of St. Christophers', St. Lucia, Demerara, Essiquibo and Berbice; but the difference between the two draughts is otherwise material. For, if the ports were specifically named, the privilege of admission to them would be positive, and not revocable at the pleasure of Great Britain. But, if, passing under the general description, it might at any time be revoked merely by prohibiting the admission to any other foreign vessels.

2. That, in the American projet, the articles of *naval stores*, *provisions*, and *lumber*, in general terms, are among those stipulated for admission, while in the British counter-projet, the naval stores are restricted to pitch, tar, and turpentine; the lumber, to staves, headings, and shingles; and from the article of provisions, are excepted salted provisions of every description. The American article provides for the liberty of importing other articles, of growth, produce, or manufacture of the United States, and the importation of which shall not be entirely prohibited from every other place whatever. The British article narrows the limitation to articles not prohibited from every other *foreign* place, so that it would reject articles which might, at the same time, be imported from the British colonies in North America.

3. That the American projet provides for the liberty of exporting molasses and salt (omitting rum) and sugar and coffee, to the amount of one-fourth part of the tonnage of the vessel, and other articles, the exportation of which to other foreign countries, is not entirely prohibited. The British projet, adding the article of rum, denies those of coffee and sugar, and allows only the exportation of other articles, not prohibited to be exported to other foreign countries *in foreign vessels*; so that articles allowed to be exported to other foreign countries, in British vessels, would still be prohibited from exportation in vessels of the United States.

These differences, so important in themselves, became still further aggravated by a comparison between the two articles for regulating the intercourse between the United States and the British North American provinces of Nova Scotia and New Brunswick, respectively connected with the West India trade article. The American proposal is, that the vessels

of both nations should be allowed to export from the United States, into Nova Scotia and New Brunswick, *the same* articles, the importation of which should be allowable by the West India article, into the West Indies, in American vessels, and any other articles, the importation of which from every other country, should not be prohibited; and that the vessels of both nations should have liberty to import from Nova Scotia and New Brunswick, into the United States, gypsum and grindstones, and any other article the growth, produce, or manufacture of *those provinces*, the importation of which, into the United States, from every other foreign country, shall not be prohibited.

The British proposal is, that the vessels of both nations should be allowed to export from the United States, into Nova Scotia and New Brunswick, not only the same articles to be admitted by the direct trade to the West Indies, but the additional articles of scantling, planks, hoops, fruits, and seeds, with a specific enumeration of grain and bread stuffs, instead of provisions.

And that the vessels of both nations should be allowed to import from Nova Scotia and New Brunswick, into the United States, not only gypsum, grindstones, and any other articles, the growth, produce, or manufacture of *the said provinces*, but also any produce or manufacture of *any part of his Britannic Majesty's dominions*, the importation of which, into the United States, shall not be entirely prohibited.

To complete this review, we are to compare the proposals of the two parties, in relation to the trade between the United States and the island of Bermuda.

The American proposal is, to include it in the West India trade article, and thereby place it on precisely the same footing as the West India islands.

The British article, of 19th March, 1817, proposed that the vessels of both nations should be allowed to import, from the United States, into the island of Bermuda, not only the articles proposed by the British West India article to be admissible in the West Indies, but hemp, flax, masts, yards, bowsprits, plank, timber, and lumber of any sort, bread stuffs enumerated, and grain of any sort, of the growth or production of the United States; and that they should be allowed to export, from Bermuda to the United States, any goods or commodities whatsoever, exportable by law from the British West Indies to any foreign country in Europe; and, also, sugar, molasses, coffee, cocoa nuts, ginger, and pimento; and all goods of British growth, produce, or manufacture.

The views of the British government, in these connected proposals, are elucidated by the right which, in the West India trade article, they insist upon reserving, to impose higher duties upon all articles so importable from the United States to the West Indies, than upon all similar articles, when imported from any of his Majesty's dominions, and being of the growth, produce, or manufacture, of his Majesty's possessions.

And, by the statement of the British plenipotentiaries, at the eighth conference, as entered upon the protocol, that they could not sign any article concerning the direct trade between the United States and the West Indies, unless with *their* proposed articles concerning the intercourse of the United States with Nova Scotia and New Brunswick, and with the island of Bermuda.

No objection will, on our part, be made to the exception of the articles proposed by the British projet to be excluded entirely from the trade, namely, salted provisions, of every description; although their probable

value is equal to one-third of the whole mass of the exports to the West Indies; but it cannot be disguised, that, if the three articles, taken together, would not, in their immediate operation, secure the carrying of the whole trade in British shipping, to the exclusion of that of the United States, they would, at least, leave the ultimate operation entirely at the discretion of the British government, who, by proportioning the difference of duties upon the articles of our growth, produce, or manufacture, and upon the like articles, of the produce, growth, or manufacture of the British dominions, to the experience of their own interest, may annul entirely the direct importations, and secure the conveyance of the whole to their own ships. They agreed, indeed, to stipulate that the duties upon the direct, shall not be other or higher than upon the indirect importations; but all the effect of this engagement is demolished by the right reserved of imposing higher duties on articles of our growth, produce, or manufactures, than upon like articles of their own; for, as the indirect importations would be exclusively in British vessels, it must he expected that all articles imported from British colonies would be received as British produce, without scrutiny with regard to their origin; and thus the produce or manufactures of the United States, imported, indirectly, through Halifax, St. John's, or Bermuda, would be received as of British produce or manufacture, and less imposed than the same articles imported directly from the United States. And the reserved right of aggravating the duty upon the direct importation being unlimited, might, at any time, at the pleasure of the British government, be made equivalent to a total prohibition; while, at the same time, our power of countervailing legislation would be locked up by the terms of the compact.

With the convention of 20th October, all the documents transmitted by you, relating to the negotiation, were submitted to the Senate. Those relating to the subject of this suspended article, were referred to the committee of foreign relations of that body, by whom, towards the close of the session, a confidential report was made, a copy of which is herewith enclosed. The shortness of the time not having admitted of a discussion of the report, it was referred to this Department; and, as it is probable that, unless an amicable arrangement of the subject can be effected before the next winter, by negotiation, the measures suggested at the close of the report, as essential for completing the experiment of our counteracting system, will be brought forward in Congress, the President, always preferring the principle of arrangement by amicable compromise to the conflict of adversary laws, wishes to make another effort to prevail upon the British Cabinet to adjust this concern by mutual concession, and upon terms of practical reciprocity.

You are, therefore, authorized to agree to two additional articles as supplementary to the convention, accepting the restricted list of articles, as proposed by the article which the British Plenipotentiaries offered at the 8th conference, and submitting to the exclusion of salted provisions, and to the confined list of naval stores and lumber, among the importable, and to the exclusion of sugar and coffee from the list of the exportable articles, in American vessels, in the direct trade with the West Indies; but with the condition that the list of importable articles, to the West Indies, shall be the same as that to Bermuda and to the North American colonies; and that the exportable articles shall be confined to such as are of the growth, produce, or manufacture of the British West India and North American colonies; and that no other or higher duties shall be payable on importa-

tions from the United States, directly or indirectly, than on similar articles imported from any foreign country, or from any of the British colonies themselves.

A draught of two articles, to this effect, and forming a compromise between the articles proposed by you at the third, and those offered by the British plenipotentiaries at the fifth and eighth conferences, is herewith enclosed. We consent, by this proposal, to restrict the *list* of articles to be admitted in the trade, even as the British cabinet itself desires; but we adhere to the principle that, of this traffic, thus limited, our shipping shall have the chance of carrying its fair proportion, and shall stand upon equal terms of competition with the British. It is not intended that you should be confined to the letter of this draught. It may be modified in regard to the expression, as you think proper, and if desired by the British government, the two passages included within brackets in the draught of the first article, may be omitted. But you will candidly state to Lord Castlereagh, that our ultimate object of participating in the *navigation* of this necessary trade, having been explicitly avowed, must be steadily pursued. That we deem it more for our interest to leave it on the footing of reciprocal mutual regulation, than to bind ourselves by any compact, the result of which must be to disappoint us of that object. That we think the effect of the three articles, declared to be inseparable, by the British plenipotentiaries, would be to deprive us even of the portion of the carrying which we have already secured by our existing laws, and which we believe we can further secure, and that it is far better, for the harmony of the two nations, to avoid any bargain, in which either party, after agreeing to it, shall have, by the experience of its effect, the sentiment of having been *over-reached*, brought home to its councils. We ask for no such engagement, on the part of Great Britain. We have too much confidence in the wisdom and liberality of her cabinet, to believe that they would wish to obtain such an engagement from us. At every step of counteracting regulation that we have taken, or shall take, in this concern, we proceed with reluctance, because we are convinced it might be adjusted more to the mutual interest, and mutual understanding, by amicable arrangement, than by countervailing legislation. But, to whatever arrangement we may subscribe, we are convinced it can answer no useful purpose, unless it shall prove to be founded on the reciprocity of real effects, instead of hinging upon that of words.

Your power, heretofore given, is considered sufficient to authorize you to sign two additional articles, of the substance of those enclosed, with any person or persons duly authorized by the British government. If agreed to, they may be declared supplementary to those of the convention of the 20th of October, and to be of the same duration. They must, of course, be submitted to the sanction of the Senate for ratification here.

I am, very respectfully, Sir, &c.

JOHN QUINCY ADAMS.

ARTICLE 1.

The vessels of the United States and British vessels shall have liberty to import, from any of the ports of the United States to which any foreign vessels are permitted to come, into any of the following ports, namely, Kingston, Savannah Le Mar, Montego Bay, Santa Lucia, Antonio, Saint Ann, Falmouth, and Porta Maria in the Island of Jamaica, San Joseph in the Island of Trinidad, Scarbo-

rough in the Island of Tobago, Saint George in the Island of Grenada, Kingston in the Island of Saint Vincent, Bridgetown in the Island of Barbadoes, Rosseau in the Island of Dominica, Saint John's in the Island of Antigua, Road Harbor in the Island of Tortola, the principal port of Turks Island, Nassau in the Island of New Providence, Pitt's Town in Crooked Island, and the principal port of the Island of Bermuda, tobacco, pitch, tar, turpentine, staves, headings, shingles, horses, mules, poultry, live stock, and provisions of all sorts, (except salted provisions of any description, whether meat, fish, or butter,) such articles being the growth, produce, or manufacture of the United States, [and any other articles of the growth, produce, or manufacture of the Uuited States, the importation of which, into the above-mentioned ports, shall not be entirely prohibited from every other foreign country, or place.] And the vessels of the United States and British vessels shall have liberty to export, from any of the said ports of his Britanic Majesty's dominions, to any of the aforesaid ports of the United States, rum, molases, and salt, being of the growth, produce, or manufacture of any of the above-mentioned dominions, [and any other articles of the said growth, produce, or manufacture, the exportation of which, to any other foreign country, or place, shall not be entirely prohibited.]

The vessels of either party, employed in the trade provided for by this article, shall be admitted in the ports of the other, as above-mentioned, without paying any other, or higher duties, or charges, than those payable in the same ports, by the vessels of such other party; and they shall have liberty, respectively, to touch, during the same voyage, at one or more of the above-mentioned ports of the other party, for the purpose of disposing of their inward, and of taking on board their outward cargoes.

No other or higher duties shall be paid, on the importation from the United States, into the above-mentioned ports of the British colonies, or from the said ports into the United States, of any of the articles importable, by virtue of this convention, when imported in the vessels of either of the two nations, than when imported in the vessels of the other; nor when imported directly between the United States and the said ports, or vice versa; and when imported in a circuitous manner. No other or higher duties shall be charged upon any of the above-mentioned articles, when imported by virtue of this convention, into the United States, or into any of the ports aforesaid, than may be charged on similar articles, when imported from any foreign country into the United States, or from any other country or place whatsoever into the said ports. The same duties shall be paid, and the same bounties shall be allowed, on the exportation of any articles which may, by virtue of this article, be exported from the said British ports, to the United States, or from the United States to the said ports, whether exported in vessels of the United States, or in British vessels.

ARTICLE 2.

The vessels of the United States and British vessels shall have liberty to export, from any of the ports of the United States to which any foreign vessels are permitted to come, to the ports of Halifax, in Nova Scotia, and of St. John's, in New Brunswick, and to any other port within the said provinces of Nova Scotia and New Brunswick, to which vessels of any other foreign nation shall be admitted, any article, of the growth, produce, or manufacture, of the United States, which, by virtue of the preceding article, is importable from the United States into the British colonial ports therein named; and upon the same terms, in regard to the payment of duties and charges; and they shall have liberty to import, from any of the aforesaid ports within the provinces of Nova Scotia and New Brunswick, into any of the aforesaid ports of the United States, gypsum and grindstones, the produce or manufacture of the said provinces, and any other article of the said produce or manufacture, the exportation of which from the said provinces, and the importation of which into the United States, to or from any other foreign country, shall not be altogether prohibited. The vessels of either party, employed in this trade, shall pay no other or higher duties or charges, than those of the other. The same duties of importation and of exportation shall be paid on the articles imported or exported, by virtue of this article, and the same bounties allowed on their exportation, whether in vessels of the United States, or in British vessels.

Extract of a letter from Mr. Rush, Envoy, &c. at London, to Mr. Adams, Secretary of State, dated London, June 14, 1819.

"I was honored, on the 8th instant, with your despatch, number seventeen, of the 7th of May.

"On the 9th I addressed a note to Lord Castlereagh, to request an interview, that I might proceed to lay before this government, without losing any time, the determinations to which the President had come on the important subject of the commercial intercourse between the United States and the West Indies. His lordship appointed yesterday for me to wait upon him.

"I commenced with calling to mind the point at which the discussions had left off, upon this branch of the negotiation, last autumn, and gave a new assurance of the President's earnest desire to see this trade opened upon a footing of entire and liberal reciprocity, rather than stand any longer upon the conflict of arbitrary laws. In this spirit I was instructed to offer a projet, which had been carefully drawn up, upon the basis of a compromise between the pretensions of the two parties, and which, indeed, would be found to fall in so entirely with the propositions of Great Britain, in some respects, and to make such an approximation to them in others, that a hope was cherished of its proving acceptable.

"That, in particular, it would be found to adopt the description of naval stores, and of lumber, as articles to be exported from the United States, upon which the British plenipotentiaries had themselves insisted—confining the former to pitch, tar, and turpentine; and the latter to staves, heading, and shingles; contrary to the more enlarged signification which it had been the desire of the American plenipotentiaries to give to them. That it acquiesced, also, in the exclusion of all salted provisions, including the important article of fish. That it, moreover, came wholly into the British views, in consenting to the exclusion of sugar and coffee, as articles to be imported into the United States from the British West Indies, it being understood that the above traffic was to be open upon equal terms, in all respects, to American and British vessels.

"In return for such an accommodation to the colonial views of Great Britain, the projet asked, on the other hand, that the list of articles exportable from the United States to the West Indies, should be the same as to Bermuda, and to the British North American colonies; that the articles exportable to the United States should be confined to such as were of the growth, produce, or manufacture of the above islands or colonies; and that the same duties, and no more, should be payable on importations from the United States into the West Indies, whether the articles were brought directly or indirectly, as on similar articles imported into the West Indies from any foreign country or from any of the British colonies.

"With this outline of its contents, I handed a copy of the projet which came enclosed in your despatch, to his Lordship. The discussions between the plenipotentiaries of the two governments having recently been so ample on the matters which it embraces, I thought that nothing was likely to be gained by my leaving room for the possible hope that any of its essential provisions would be departed from. Accordingly, I deemed it best to say with candor, in the first instance, that, as it was offered, so was it to be taken; for that my present instructions would admit of no deviations, unless on points verbal, or otherwise immaterial. I shall bear in mind that the parts within crotchets may be omitted. His lordship received it with an assurance that a full and candid consideration would be given to it. The pressure of parliamentary business might, he said, delay an attention to it for some weeks; but that, at as early a day as was practicable, it would be taken up. I replied that I believed that the great object would be attained on our side, if a decision were communicated to me in full time to be made known to the President before the next session of Congress. Should our propositions prove acceptable, I was empowered, I added, to make them supplementary to the convention of the twentieth of October, subject always to the ratification of the Senate. I here closed, having endeavored, in the course of my remarks, to convey to his lordship's mind, those general reasonings applicable to our propositions, which are unfolded in your despatch, and to which I shall again advert on future occasions, should it become necessary. The confidential report of the nineteenth of Feb-

ruary, by the Committee of Foreign Relations, in the Senate, was safely received, under cover of your despatch."

Extracts of a letter from Mr. Rush to the Secretary of State, dated

LONDON, *September* 17, 1819.

"Lord Castlereagh came to town on the 15th instant, and granted me an interview yesterday on the business of the West India trade.

Holding in his hands the proposals I had submitted, his Lordship premised, that he thought it would perhaps be best for him to answer them in the same general way that the British articles, submitted through my predecessor, in 1817, had been answered; that is, not in any formal manner, but merely by a word of conversation with me. I said that I was sure that the form of the answer would make no difference; its transmission to my government, in whatever mode his Lordship might be pleased to convey it to me, would doubtless effect every substantial purpose.

In the answer there was no hesitation. Our proposals, he said, were not of a nature to form the basis of any agreement between the two countries. They would effect an entire subversion of the British colonial system. From this system they were not prepared to depart. Their colonies were, in many respects, burdensome, and even liable to involve the country in wars. Garrisons, and other establishments, were constantly maintained in them, at a heavy charge: In return, it was just that they should be encumbered with regulations, the operation of which might help to meet, in part, the expenses which they created. The great principle of these regulations was known to be the reservation of an exclusive right to the benefit of all their trade; a principle, of which the free-port acts had, it was true, produced some relaxation; but, it had never been the intention of this government to do any thing more than offer to us a participation in these acts. Some modifications of them would have been acquiesced in, suggested by local causes, and an anxious desire that our two countries might come to an understanding on this part of their intercourse. But, to break down the system, was no part of their plan. Our proposals, therefore, could not be accepted. Such were his remarks.

I observed, that to break down the system was not our aim. All that we desired was, that the trade, as far as it was gone into at all, should be open to the vessels of both nations upon precisely equal terms. If the system fell by such an arrangement, it was as an incident; and only showed how difficult it seemed to render its long continuance consistent with a proper measure of commercial justice towards us.

So broad and unequivocal was his Lordship's refusal, that it seem-

ed almost superfluous to ask him to be more particular; yet, perceiving in me a wish to be made acquainted rather more specifically with the objections, he said that he would not scruple to mention them, without, however, entering into details, for which he was not prepared, and which had been amply unfolded on both sides during the negotiation this time twelve-month. The objections were threefold. First, We asked an enumeration, by name, of all the ports in the West Indies that we desired should be open to our vessels. Secondly, That the trade between the United States and the British colonies on the continent of America, and with Bermuda, should be confined within the same limits as that between the United States and the West India Islands direct; and, thirdly, we asked, That the duties on articles imported from the United States into the Islands, in American ships, should be no higher than on the same articles when imported in British ships, from the United States, or from any other country, without saying *foreign* country. These three provisions, particularly the second and third, would form insurmountable obstacles to the conclusion of any convention which should purport to embrace them.

I contented myself with replies as general. The communications from the joint mission, last year, as well as some separate ones from this legation, after it was over, will have informed the President how fully the views of our government, on the injustice of this system, in all its past effects upon us, have heretofore been stated. On this occasion I remarked, as to the first objection, that it was plain, that, if the ports were not specially named, the privilege of admission to them would, at any time, be revokable, whenever Great Britain thought fit to exclude from them any other foreign vessels. It would be, in short, a privilege with nothing positive or certain in its character. As to the second, I said, that, should an indirect trade be opened with the Islands in any greater extent than the direct trade, nothing was more clear, than that the greater part, or whole, would soon be made to flow in the channel of the former, to the manifest advantage of British bottoms. On the third objection, I said that an explanatory remark or two was all that I should add, (it would be but repetition,) to what had often been urged before. That we should deny to Great Britain the common right of protecting the industry of a part of her own dominions, by laying discriminating duties in its favor, might be thought, at first blush, to wear an appearance not defensible; but, it would be found, on a moment's examination, to be strictly so. The system, built up by Britain, must be looked at altogether. It was in itself so inverted and artificial, that principles, not disputed in the abstract, ceased to be just when applied to it. Though one and all of these colonies were, indeed, of her dominion, yet were they made to stand, with respect to us, in the light of separate and independent countries. This was the key-stone of the colonial doctrine. Why should we not, in turn, adopt and apply it to Great Britain? If we stipulated not to impose, upon articles imported into the United States from the British West Indies, any

higher duties than upon the same articles coming from any other foreign country, a similar provision by Great Britain, to impose, on articles exported from the United States to her islands, no higher duties than on the same articles when brought from any other *foreign* country, would obviously be one of but nominal reciprocity; since, after *her own* dominions on the continent of America, there was no other place whence such exportations to her islands would ever be made. Thus it was that this third provision, combined with the two others, became necessary to enable the United States, whilst prosecuting a trade with the British West Indies, to place their navigation upon a footing, not of verbal merely, but of real equality. It was the latter alone that could lay the foundations of a compact between the two nations that could ever be satisfactory or lasting.

His Lordship did not hold to such views, and the conversation was not prolonged. It is proper for me to add, that he requested it to be understood, that, whilst our proposals were declined, it was altogether in a friendly spirit, and that no complaint would be made, as had frequently been intimated, at our resorting to any just and rightful regulations of our own, which we might deem necessary to meet theirs, in relation to these islands. I rejoined, that I thought it probable that some such regulations would, before long, in addition to those existing, be adopted.

Having earnestly endeavored to fulfil all my instructions, in their full spirit of anxiety for a different result upon this subject, my duty appears now to have arrived at its close."

Extract of a letter from Mr. Adams, Secretary of State, to Mr. Rush, Envoy, &c. at London, dated Department of State, 27th May, 1820.

"I have the honor of transmitting herewith, a copy of the laws passed at the last Session of Congress, which closed on the 15th inst.; among which you will find one, page 116, entitled "An act supplementary to an act concerning navigation," which has an important bearing upon our commercial relations with Great Britain.

"The subject to which that act relates, has so recently, and so fully been discussed, between the two governments, that it may be superfluous, though it cannot be unseasonable, to assure the British Cabinet, as you are authorized to do, that it was adopted with a spirit, in no wise unfriendly to great Britain; and that, if at any time the disposition should be felt there, to meet this country by arrangements, founded on principles of reciprocity, it will be met, on the part of the United States, with an earnest wish to substitute a system of the most liberal intercourse, instead of that of counter prohibitions, which this act has only rendered complete."

LIST OF PAPERS.

Messrs. Gallatin and Rush to Mr. Adams, dated London, October 20, 1818.—Extracts.

No. 1. Protocol first conference, 27th August.

2. Do. second do. 29th August.

3. Do. third do. 17th September.

Articles, fisheries,	A.	American.
Do. boundary,	B.	
Do. West Indies, / Do. Nova Scotia,	C.	
Do. slaves,	D.	
Explanatory memorandum,	E.	
Projet on impressment,	F.	British.
Seven articles, maritime rights, marked a. to g.	G.	American.
Three articles, miscellaneous, marked h. to k.	H.	

4. Protocol fourth conference, 25th September.

Amendments to the projet of impressment,	A.	American.

5. Protocol fifth conference, 6th October.

Article, fisheries,	A.	British counter projet.
Do. boundary,	B.	
Do. Mississippi,	C.	
Do. Nova Scotia,	D.	
Do. slaves,	E.	

6. Unofficial note and memorandum, 7th October, American.

7. Protocol 6th conference, 9th October.

Amendments to boundary article,	A.	American.
Amendments to slaves article	B.	

8. Unofficial note and memorandum, 12th October, American.

9. Protocol seventh conference, 13th October.

Articles, fisheries,	A.	British second counter projet.
Do. boundary,	B.	
New projet of impressment,	C.	
Six articles, maritime rights and miscellaneous, a. to g.	D.	
Memorandum respecting do. Slaves	E.	

10. Amendment to boundary article, American.

11. Protocol eighth conference.

West India article,	F.	British.

12. Protocol ninth conference.

Extracts of a letter from Messrs. Gallatin and Rush to the Secretary of State, dated London, October 20, 1818.

"We have the honor to transmit a convention, which we concluded this day with the British Plenipotentiaries.

Lord Castlereagh having expressed a wish that the negotiations might be opened before his departure for Aix-la-Chapelle, Mr. Gallatin left Paris as soon as he had received our full powers, and arrived here on the 16th of August. Our joint instructions, contained in your despatch of the 28th of July, did not, however, reach us till the 3d of September. We had long conversations with Lord Castlereagh, at his country seat, on the 22d and 23d of August, but could not, owing to our instructions not having arrived, discuss with him the questions of the fisheries, and of the West India intercourse. He left London on the 1st of September. The official conferences had begun on the 27th of August, and for the progress of the negotiation, we beg leave to refer to the enclosed copies of the protocol, and documents annexed to it, and of two unofficial notes sent by us to the British plenipotentiaries. We will add some observations on the several objects embraced by the convention:

1. *Fisheries.*

We succeeded in securing, besides the rights of taking, and curing fish, within the limits designated by our instructions, as a sine qua non, the liberty of fishing on the coasts of the Magdalen Islands, and of the western coast of Newfoundland, and the privilege of entering for shelter, wood, and water, in all the British harbors of North America. Both were suggested as important to our fishermen, in the communications on that subject, which were transmitted to us with our instructions. To the exception of the exclusive rights of the Hudson's Bay Company, we did not object, as it was virtually implied in the treaty of 1783, and we had never, any more than the British subjects, enjoyed any right there, the charter of that company having been granted in the year 1670. The exception applies only to the coasts and their harbors, and does not affect the right of fishing in Hudson's Bay, beyond three miles from the shores, a right which could not exclusively belong to, or be granted by, any nation.

The most difficult part of the negotiation related to the permanence of the right. To obtain the insertion in the body of the convention of a provision declaring expressly that that right should not be abrogated by war, was impracticable. All that could be done was to express the article in such manner as would not render the right liable to be thus abrogated. The words "for ever" were inserted for that purpose, and we also made the declaration, annexed to the protocol of the third conference, the principal object of which was to provide in any event for the revival of all our prior rights. The insertion of the words "for ever" was strenuously resisted. The British Plenipotentiaries urged that, in case of war, the only effect of

those words being omitted, or of the article being considered as abrogated, would be the necessity of inserting in the treaty of peace a new article renewing the present one, and that after all that had passed, it would certainly be deemed expedient to do it, in whatever manner the condition was now expressed. We declared that we would not agree to any article on the subject, unless the words were preserved, or in case they should enter on the protocol a declaration impairing their effect.

It will, also, be perceived that we insisted on the clause by which the United States renounce their right to the fisheries relinquished by the convention, that clause having been omitted in the first British counter-projet. We insisted on it with the view, 1st: Of preventing any implication that the fisheries secured to us were a new grant, and of placing the permanence of the rights secured, and of those renounced, precisely on the same footing. 2d. Of its being expressly stated that our renunciation extended only to the distance of three miles from the coasts. This last point was the more important, as, with the exception of the fishery in open boats, within certain harbors, it appeared, from the communications abovementioned, that the fishing ground on the whole coast of Nova Scotia is more than three miles from the shores; whilst, on the contrary, it is almost universally close to the shore, on the coasts of Labrador. It is in that point of view, that the privilege of entering the ports for shelter is useful, and it is hoped, that, with that provision, a considerable portion of the actual fisheries on that coast (of Nova Scotia) will, notwithstanding the renunciation, be preserved.

2. *Boundary Line.*

This being definitively fixed at the 49th degree of north latitude, from the Lake of the Woods to the Stoney Mountains, it is unnecessary to repeat the arguments which were urged on that subject. The attempt was again made to connect with it an article, securing to the British, access to the Mississippi, and the right to its navigation. We declared, and entered the declaration in the protocol, that we could not agree to the article, nor to any that would bring the British in contact with that river. The British Plenipotentiaries having, by the protocol of the seventh conference, agreed to the omission of the article, that point is also definitively settled. And it may be observed, with reference to the treaty of 1783, that, if the United States have not secured to themselves the whole of the fisheries heretofore enjoyed within the jurisdiction of Great Britain, they have obtained the liberty of curing fish on a part of the southern coast of Newfoundland, and the abandonment of an inconvenient privilege within their own territory.

3. *Columbia river.*

This subject was, during the whole negotiation, connected by the British Plenipotentiaries with that of the boundary line. They appeared

altogether unwilling to agree to this in any shape, unless some arrangement was made with respect to the country westward of the Stoney Mountains. This induced us to propose an extension of the boundary line, due west, to the Pacific Ocean. We did not assert that the United States had a perfect right to that country, but insisted that their claim was at least good against Great Britain. The 49th degree of north latitude had, in pursuance of the treaty of Utrecht, been fixed, indefinitely, as the line between the northern British possessions, and those of France, including Louisiana, now a part of our territories. There was no reason why, if the two countries extended their claims westward, the same line should not be continued to the Pacific Ocean. So far as discovery gave a claim, ours, to the whole country on the waters of the Columbia river, was indisputable. It had derived its name from that of the American ship, commanded by Captain Gray, who had first discovered and entered its mouth. It was first explored, from its sources to the ocean, by Lewis and Clarke, and before the British traders from Canada had reached any of its waters: for it was now ascertained, that the river *Tucoutche Tesse*, discovered by McKenzie, and which he had mistaken for the Columbia, was not a branch of this river, but fell into the sound called "the Gulph of Georgia. The settlement at the place called Astoria, was also the first permanent establishment made in that quarter. The British Plenipotentiaries asserted, that former voyages, and principally that of Captain Cook, gave to Great Britain the rights derived from discovery, and they alluded to purchases from the natives south of the river Columbia, which they alleged to have been made prior to the American Revolution. They did not make any formal proposition for a boundary, but intimated, that the river itself was the most convenient that could be adopted, and that they would not agree to any that did not give them the harbor at the mouth of the river, in common with the United States. We stated that we could not agree to this, but expressed our readiness and our wish to insert, in the boundary article, a proviso similar to what had been proposed on former occasions, and which would leave that subject open for arrangement hereafter. To this they would not consent, and offered the article annexed to the protocol of the fifth conference. We declared, that we preferred not signing any article for the boundary line, eastward of the Stoney Mountains, to acquiescing in that arrangement. We did not know with precision what value our government set on the country to the westward of those mountains, but we were not authorized to enter into any agreement which would be tantamount to an abandonment of the claim to it. It was at last agreed, but, as we thought, with some reluctance on the part of the British Plenipotentiaries, that the country on the northwest coast, claimed by either party, should, without prejudice to the claims of either, and for a limited time, be opened for the purposes of trade, to the inhabitants of both countries. The importance which seems to have been attached to that subject by Great Britain, induces a belief that it will again be brought forward, at some future occasion, with a view to a definitive arrangement.

4. *Slaves.*

After having referred to what had already passed on that subject, we insisted that Lord Castlereagh, having, in his letter to Mr. Adams, of April 10th, 1816, declared that "the British government would not resist the claim of the United States to indemnification for slaves, or private property belonging to their citizens, which could be proved to have been in places directed to be restored by the treaty of Ghent, at the date of the ratifications, and to have been afterwards removed;" and it being in proof, by the correspondence of Captain Clavelle, and of Admiral Cockburn, that slaves had been removed from Tangier Island, and from Cumberland Island, subsequent to the ratifications, the claim for indemnification, to that extent, had thus been already fully admitted by the British government. With respect to slaves, removed on ship board previous to the ratifications, and for which Lord Castlereagh denied that our claim to indemnity could, with justice, extend; we urged, that such of our harbors and waters as were in the possession of the British, at the date of the ratifications, were strictly within the meaning of places to be restored; that they were accordingly actually restored; and it necessarily followed, that, according to Lord Castlereagh's construction, the British were bound not to have carried away any slaves, who were then on board British vessels, lying within any such harbors or waters.

The British Plenipotentiaries offered as a substitute to the article we had proposed, one to refer the subject to a friendly sovereign. This we could not reject, as the proposal had originated with the United States, and was now unconnected with the questions respecting the boundary line, and the Columbia river. We proposed, that the Emperor of Russia should be designated, in the article, as the umpire. This was rejected, on the ground, that, if he should refuse to act, the agreement would become null, and that it would be inexpedient, if at all practicable, to provide by the article for that contingency, so as to secure the object in view. It was added, that the sovereign could be fixed upon at a future day by the two governments, through Mr. Rush and Lord Castlereagh.

5. *Commercial Intercourse.*

The subject of the intercourse with the West Indies was fully discussed, and not thinking ourselves authorized to accede to the last proposals of the British Plenipotentiaries, which are annexed to the protocol of the 8th conference, an entry was made, that we had taken them, *ad referendum*, to our government. The negotiation being kept open, in that respect, we agreed, in conformity with our instructions, to an article, continuing in force, for ten years, the commercial convention of 1815. It was fully understood, on both sides, that if no agreement should be ultimately concluded, with respect to the colonial intercourse, no ground of complaint would arise on account of any restrictive measures whatever, that the United States might

adopt on that subject; and we stated, expressly, that such measures would, in all probability, be extended to the intercourse with Bermuda, and with the British northern colonies; that, if the direct trade with the West Indies was not allowed, the United States would not be disposed to suffer it to be carried on through any other intermediate British port.

It appeared evident to us, both from our instructions and from the act of Congress, that a perfect reciprocity and equality must be the basis, as well as a *sine qua non*, of any arrangement of the intercourse with the West Indies. And we understood this basis to embrace the following objects.

1. British vessels to be permitted to import from the British West Indies into the United States, and to export from the United States to the British West Indies, only such articles of the produce of the said West Indies, and of the United States, respectively, as American vessels should be permitted to export from, and to import into the British West Indies.

2. The duties on the vessels, and on the cargoes, to be reciprocally the same, whether the vessels were American or British.

3. The duties on the importation of American produce, into the British West Indies, not to be higher when the produce was imported directly from the United States, than when imported in a circuitous manner; with a reciprocal condition for the importation of West India produce into the United States.

4. The intercourse in British vessels to be allowed only with such West India ports, as would be opened to the American vessels.

5. The British vessels, allowed to carry on that trade, to be only of the same description with the American vessels admitted in the British West Indies.

To that basis, as thus stated, the British plenipotentiaries acceded. But when the further details of the proposed arrangement were taken into consideration, several important points occurred which had not been contemplated in our instructions, and on which we were not sufficiently acquainted with the intentions of our government.

The basis of reciprocity once established, was it proper to agree to a direct intercourse, limited on both sides, to certain articles of the produce, either of the United States, or of the West Indies? And if such limitation was admissible, to what extent? And, what articles might we consent to except?

If the direct intercourse was thus limited to certain articles, would an indirect intercourse be admissible, between the United States and Bermuda, Nova Scotia, New Brunswick, embracing articles of West India produce, or of the produce of the United States, destined for the West Indies, other than were admitted to be imported, or exported in a direct manner?

As the British government would retain the power of laying duties on the produce of the United States, imported into the West Indies, and would not lay any on similar articles imported therein, from any part of the British dominions, ought we to assent, without any condition or exception, to the clause annexed to the first article, formerly

proposed by that government, and by which no higher duties should be laid, respectively, on the produce of either country, than on similar articles imported from any other *foreign* country?

We thought it safer to err on our own side of the question, and to ask for more than, perhaps, under all circumstances, we expected to obtain, rather than to limit our demands to less than might be intended by our government. The articles which we proposed at the third conference, were drawn with that view; and the British plenipotentiaries immediately stated, that they were inadmissible, and amounted to a much greater departure from the colonial policy of Great Britain than she was prepared to allow. They did not enter into any abstract defence of that policy, but they strongly urged the impossibility of breaking down, at once, a system still favoured by public opinion, and supported by various interests, which could not be disregarded. The fish and lumber of the northern colonies; the salted provisions, and even the flour, of Ireland; the shipping interest, and that of non-residing West India planters, were all alluded to. Having once admitted the basis of perfect reciprocity with respect to the direct intercourse, they thought that the United States ought, for the present, to be satisfied with an arrangement which would admit a considerable number of articles to be carried directly, that they should not insist on the exclusion, in the intercourse with Halifax, St. Johns, and Bermuda, of those articles which might not be included in the list of those admitted in the direct intercourse with the West Indies; and that we ought not to object to the natural right of Great Britain to lay protecting duties in favor of the produce of her own possessions.

We admitted that the last principle, as an abstract proposition, was unexceptionable, but observed, that the practical effect of the condition on which they insisted, was altogether partial. Since they persevered in making a distinction between the intercourse with England, and that with her colonies, and even between that with her northern American colonies, and that with the West Indies, the United States must, in a commercial view, consider them as so many distinct countries. As no other foreign country could supply the West Indies with the articles which were the produce of the United States, a condition which would prevent Great Britain from laying higher duties on that produce, than on similar articles, the produce of other foreign countries, was nugatory, and to us, perfectly useless. There was, in that respect, no competition but with the produce of the British possessions. We found, in that condition, no compensation for the restriction which it would impose on the United States, to lay no higher duties on the colonial produce of the British possessions, than on that of other countries. The propriety of limiting the number of articles to be carried directly, would in a great measure depend on the list which might be proposed. To extend it to other articles, in the circuitous intercourse through Halifax and Bermuda, would give to the British the exclusive carriage of those articles from those ports to the West Indies, and vice versa, and be inconsistent

with the avowed object of the United States, that of an equal participation in the navigation necessary for the transportation of the articles, of which their trade with the West Indies, as allowed by Great Britain, actually consisted. Yet we were disposed to pay due regard to the various considerations which had been presented by Great Britain, and to listen to any specific proposals she might be prepared to make. No part of the articles we had offered was, with the exception of the basis of perfect reciprocity, to be considered as an ultimatum. We would, however, say, that we could not assent to any article which did not admit on the one hand, naval stores, and the whole of our lumber, and on the other, salt, molasses, and, besides rum, a limited quantity of sugar and coffee, amongst the articles of the direct trade.

With respect to duties, after having suggested without success that a maximum of those intended for the protection of the produce of the British dominions, might be agreed on, we stated that there were at least two provisions which could not be objected to, viz: That the United States should remain at liberty to lay higher duties on the colonial produce of the British possessions, than on that of those countries where we were, or might be received on better terms, than in the British West Indies; and that the condition which would preclude, generally, such higher duties being laid, should not apply to the West India articles, not admitted to be exported directly therefrom in American vessels to the United States.

The result of several free conversations was, that, as it was altogether improbable that we could, at this time, come to a definitive arrangement, the British Plenipotentiaries should offer an article with the intention of its being referred to our government.

It will be perceived by this, that they admit the principle of reciprocity; that they make no exception with respect to the description of vessels; that, giving up the article formerly proposed for Turk's Island, they also admit that vessels employed in the trade may touch from one port to another, and that to the list of articles formerly proposed are added naval stores, shingles, and staves, and a more general description of provisions. They continue to except, altogether, on the one hand, sugar and coffee, and on the other salted fish and provisions, and every other species of lumber but shingles and staves. The only essential difference between this list of articles and that proposed for the intercourse with Bermuda and the northern colonies, consists, as far as relates to the produce of the United States, in the lumber not admitted in the direct intercourse; for salted fish and provisions are equally excluded from both: but it is proposed that not only sugar and coffee, but also all articles of the produce or manufacture of any of the British dominions should be admitted, through that indirect channel, into the United States. We stated, when we received the article, that it ought to embrace only American products, and that the proposal was certainly inadmissible, so far as related to East India articles.

With respect to the ports they offer in the West Indies, they are the same with those proposed by us, with the exception of St.

Christopher's, St. Lucia, Demarara, Esequibo, and Berbice. The three last, had been at first intended to be included, but were ultimately omitted by the British Plenipotentiaries, for reasons, connected, as they said, with their engagements with Holland.

We cannot state, what may be considered as an ultimatum in that proposal. We are, however, induced to believe, that they will persevere in excluding sugar, and some species of lumber, from the direct, and salted fish and provisions from both the direct and indirect intercourse; that they will insist on having some articles admitted in that indirect, which shall be excluded from the direct intercourse; and that they will be tenacious on being placed on the footing of the most favored nation. They will also certainly insist, that vessels from Great Britain may touch at any port in the United States, and take cargoes for the West Indies, of such articles as may be admitted in the direct trade. Without such provision, (which would be made reciprocal, although only nominally so,) it is supposed here, that, considering our proximity, to admit our vessels to a participation on an equal footing, in the trade between the United States and the West Indies, would, in fact, give the latter the whole navigation connected with that trade. It must, at the same time, be observed, that the proposal being intended for reference, and not for immediate discussion, the British Plenipotentiaries may have been cautious not to go too far. Upon the whole, we hope, that if our negotiation does not pave the way for a definitive arrangement, it will, at least, have served to make our government better acquainted with the dispositions of this, and may afford some assistance with respect to the further proceedings which may be thought expedient.

It having been ascertained, that the British government would not assent to any article on the subject of the intercourse by land, and inland navigation, with Canada, which would substantially differ from that already twice rejected, and that they would not even agree to a provision, securing to us the right of taking our produce, in our own boats or vessels, down the St. Lawrence, as far as Montreal, and down the river Chambly, as far as the river St. Lawrence; we thought it altogether unnecessary to make any proposal on that subject, on which, indeed, we were not particularly instructed."

No. 1.

Protocol of the first Conference, between the American and British Plenipotentiaries, held at Whitehall, on the 27th of August, 1818.

PRESENT—Mr. Gallatin, Mr. Rush, } American.
Mr. Robinson, Mr. Goulburn, } British.

The Plenipotentiaries presented and exchanged their respective full powers.

It was agreed, that the discussions should be carried on by conference and protocol, with the insertion in the protocol of such written documents, as either party might deem necessary, for the purpose of recording their sentiments in detail.

The British plenipotentiaries stated, that they were ready to proceed at once to the signature of a treaty, renewing the commercial convention of 1815 as it stands; or that if the American Plenipotentiaries should prefer to delay the signature of such a treaty of renewal, till more progress should have been made in the discussion of the other topics which it is the object of the two governments to arrange, no objection would be made to the adoption of that course. But it was explicitly stated, by the British plenipotentiaries, that, with respect to all those other topics of discussion, whether purely commercial, or partaking more of a political character, they were instructed not to consent to any partial or separate consideration of them, nor to select any one, in particular, as an appendage to a renewal of the existing commercial convention.

The American plenipotentiaries acquiesced in the division of the subject, represented by the British plenipotentiaries to be essential, but stated it to be their desire not to sign the treaty of renewal for the present. It was, however, agreed, that the eventual signature of that instrument should not be made contingent upon a settlement of the other points, and both parties declined bringing forward any proposed modification of it.

It was agreed to meet again on Saturday at two o'clock.

ALBERT GALLATIN,
RICHARD RUSH,
FREDERICK JOHN ROBINSON.
HENRY GOULBURN.

No. 2.

Protocol of the second conference held between the American and British Plenipotentiaries at Whitehall, on the 29th of August, 1818.

PRESENT—Mr. Gallatin,
Mr. Rush,
Mr. Robinson,
Mr. Goulburn.

The Plenipotentiaries agreed upon, and signed the protocol of the preceding conference. Some general conversation then ensued upon some of the different topics of discussion.

The American Plenipotentiaries stated, that, whenever the British Plenipotentiaries were prepared to submit their project on the Impressment Question, they (the American Plenipotentiaries,) would bring forward their proposition respecting the other maritime points; but that they did not intend to bring those topics before the confer-

ences at all, unless the impressment of seamen was to be discusse on the part of Great Britain.

It was agreed that the next conference should take place on September the 4th.

ALBERT GALLATIN,
RICHARD RUSH,
FREDERICK JOHN ROBINSON,
HENRY GOULBURN.

No. 3.

Protocol of the third conference held between the American and British Plenipotentiaries, at Whitehall, on the 17th day of September, 1818.

PRESENT—Mr. Gallatin,
Mr. Rush,
Mr. Robinson,
Mr. Goulburn.

The conference fixed for the 4th instant, having been adjourned by mutual consent, it was held this day.

The protocol of the preceding conference was agreed upon and signed.

The American Plenipotentiaries, after some previous explanation of the nature of the propositions which they were about to make, submitted the five annexed articles, (A, B, C, D,) upon the fisheries, the boundary line, the West India intercourse, that of Nova Scotia and New Brunswick, and the captured slaves; the two first articles they stated to be drawn as permanent, and they accompanied that respecting the fisheries with the annexed explanatory memorandum, (E.)

The British Plenipotentiaries submitted the annexed projet of articles respecting the impressment of seamen, (F,) and they expressed their conviction that a consideration of these articles would, under all the circumstances of difficulty with which the question is involved, satisfy the American Plenipotentiaries of the sincere and earnest disposition of the British government, to go every practicable length in a joint effort to remove all existing causes of difference, and to connect the two countries in the firmest ties of harmony and good understanding.

The American Plenipotentiaries declared, that they received the proposition entirely in the same spirit, and then brought forward the annexed articles, (G,) relating to other maritime points which at the former conference they had announced their intention of producing.

They also submitted three other articles as annexed, respecting wrecks, &c. &c. (H.)

It was agreed to meet on Friday, the 25th instant.

ALBERT GALLATIN,
RICHARD RUSH,
FREDERICK JOHN ROBINSON,
HENRY GOULBURN.

ARTICLE A.

Whereas, differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof, to take, dry, and cure fish, on certain coasts, bays, harbors, and creeks, of his Britannic Majesty's dominions in America: It is agreed, between the high contracting parties, that the inhabitants of the said United States shall continue to enjoy, unmolested, forever, the liberty to take fish, of every kind, on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Ramian Islands, and the western and northern coast of Newfoundland, from the said Cape Ray to Quirpon Island, on the Magdalen Islands; and, also, on the coasts, bays, harbors, and creeks, from Mount Joly, on the southern coast of Labrador, to, and through, the streights of Belleisle, and thence northwardly, indefinitely along the coast; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks, of the southern part of the coast of Newfoundland hereabove described, of the Magdalen Islands, and of Labrador, as hereabove described: but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without previous agreement for that purpose, with the inhabitants, proprietors, or possessors of the ground; and the United States hereby renounce any liberty heretofore enjoyed, or claimed by the inhabitants thereof, to take, dry, or cure fish on, or within three marine miles of any of the coasts, bays, creeks, and harbors, of his Britannic Majesty's dominions in America, not included within the above-mentioned limits. Provided, however, that the American fishermen shall be admitted to enter such bays and harbors, for the purpose only of obtaining shelter, wood, water, and bait; but under such restrictions, as may be necessary to prevent their drying or curing fish therein, or in any other manner abusing the privilege hereby reserved to them.

ARTICLE B.

It is agreed that a line, drawn due north or south, as the case may require, from the most northwestern point of the Lake of the Woods, until it shall intersect the 49th parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of the United States and those of his Britannic Majesty, to the westward of the said lake, and that the said line shall form the northern boundary of the said territories of the United States, and the southern boundary of his Britannic Majesty's said territories, from the said lake to the Pacific Ocean: it being, however, distinctly understood, that, with respect to the territories situated on the northwest coast of America, or westward of the Stoney Mountains, the two high contracting parties intend hereby to define the extent of their respective claims, so far only as relates to the two parties, and without reference to the claims of any other nation.

The inhabitants of the two countries, respectively, shall have liberty freely to come with their ships and cargoes to all such places, ports, and rivers, on the northwest coast of America, as belong to, or may be in the possession of either of the two high contracting parties, and shall be admitted and treated, with respect to their said ships and cargoes, and to trade, generally, on the same terms, and in the same manner, as the inhabitants, vessels, and cargoes, of the country owning or having possession of such places, ports, or rivers. The navigation of the rivers that fall into the Pacific Ocean, and which may be intersected by the line of demarcation, aforesaid, shall, from the sources of such branches as may be thus intersected, to the ocean, remain free and open to the citizens of the United States, and to the subjects of Great Britain. But both parties reserve to themselves the power of regulating, each within their respective territories, the right to the navigation of the rivers that fall either into the Gulf of Mexico or into Hudson's Bay.

ARTICLE C.

It is agreed that vessels of the United States shall have liberty to import from any of the ports of the United States, to which any foreign vessels are permitted to come, into any of the following ports of His Britannic Majesty's dominions in the West Indies, and on the continent of South America, viz: the ports of Kingston, Savannah La Mar, Montego Bay, Santa Lucia, Antonio, Saint Ann, Falmouth, and Porto Maria, in the island of Jamaica; the port of San Joseph, in the island of Trinidad; the port of Scarborough, in the island of Tobago; the port of St. George, in the island of Grenada; the port of Kingston, in the island of St. Vincent; the port of Bridgetown, in the island of Barbadoes; the principal port of the island of St. Lucia; the port of Rosseau, in the island of Dominica; the port of St. John's, in the island of Antigua; the port of Basseterre, in the island of St. Christopher's; the port of Road Harbor, in the island of Tortola; the principal port of Turk's Island; the port of Nassau, in the island of New Providence; the port of Pitt's Town, in Crooked Island; the principal port of the island of Bermuda; the principal port in the colony of Demarara, and the principal port in the colony of Berbice, tobacco, naval stores, live stock, and every species of provisions, and lumber, being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to import, in the same manner, every other article of the growth, produce, or manufacture of the United States, the importation of which, into the abovementioned British islands and colonies, shall not be entirely prohibited from every other place whatever, if of the growth, produce, or manufacture of the United States, and from every other foreign country or place, if of the growth, produce, or manufacture of any other foreign country or place. The said vessels,

coming directly from any of the aforesaid ports of the United States, shall, likewise, have liberty to export from any of the aforesaid ports of His Britannic Majesty's dominions, to any of the aforesaid ports of the United States, sugar, coffee molasses, and salt, being of the growth, produce, or manufacture, of any of the abovementioned British islands and colonies: And the said vessels shall also have liberty to export, in the same manner, any other article of the said growth, produce, or manufacture, the exportation of which, from the said British islands and colonies, to every other foreign country or place, shall not be entirely prohibited: Provided, however, that the quantity of sugar and coffee, which may be thus exported, shall not, for each vessel, exceed the rate of five hundred weight of both together, for each ton of the burthen of such vessel.

British vessels shall, in the same manner, have liberty to import from any of the aforesaid ports of his Britannic Majesty's dominions, into any of the aforesaid ports of the United States, sugar, coffee, molasses, and salt, being of the growth, produce, or manufacture of the above mentioned British islands and colonies: and the said vessels shall also have liberty to import, in the same manner, any other article of the said growth, produce, or manufacture, the exportation of which, from the said islands and colonies, to the United States, shall be allowed in vessels of the United States, and the importation of which, into the said United States from every foreign country or place, shall not be entirely prohibited. *Provided, however,* That the quantity of sugar and coffee, which may be thus imported, shall not exceed, for each vessel, the rate of five hundred weight of both together, for each ton of the burthen of such vessel. The said vessels, coming directly from any of the aforesaid ports of his Britannic Majesty's dominions, shall likewise have liberty to export from any of the aforesaid ports of the United States, to any of the aforesaid ports of his Britannic Majesty's dominions, tobacco, naval stores, live stock, and every species of provisions and lumber, being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to export, in the same manner, every other article, the growth, produce, or manufacture of the United States, the importation of which, into the said British ports from the said United States, shall be allowed in vessels of the United States, and the exportation of which, from the said United States, to every foreign country or place, shall not be entirely prohibited.

The vessels of either of the two parties, employed in the trade provided for by this article, shall be admitted in the ports of the other party, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party; and they shall have liberty, respectively, to touch, during the same voyage, at one or more of the ports above mentioned, of the other party, for the purpose of disposing of their inward, or of taking on board their outward cargoes.

No other or higher duties shall be paid on the importation into the United States, of any of the articles which may be imported there-

in by virtue of this article, when imported in British vessels, than when imported in vessels of the United States, nor when imported directly from the above mentioned ports of his Britannic Majesty's dominions, than when imported in a circuitous manner. And no other or higher duties shall be paid, on the importation into the above mentioned ports of his Britannic Majesty's dominions, of any of the articles which may be imported therein by virtue of this article, when imported in vessels of the United States, than when imported in British vessels, nor when imported directly from the United States, than when imported in a circuitous manner.

The same duties shall be paid, and the same bounties shall be allowed on the exportation of any articles which may, by virtue of this article, be exported either from the above mentioned British islands and colonies, to the United States, or from the said United States, to the said islands and colonies, whether such exportation shall be in vessels of the United States, or in British vessels. And the articles thus exported, shall, in the dominions of both parties, respectively, pay the same duties, and be allowed the same bounties, on the exportation thereof, as when exported to any other foreign country or place whatever.

ARTICLE.

British vessels shall have liberty to export from any of the ports of the United States, to which any foreign vessels are permitted to come, to the ports of Halifax, in His Britannic Majesty's province of Nova Scotia; to the Port of St. John's, in His Britannic Majesty's province of New Brunswick; and to any other port within the said provinces of Nova Scotia or New Brunswick, to which vessels of any other foreign nation shall be admitted, any article of the growth, produce, or manufacture, of the United States, the importation of which, from the said United States into His Britannic Majesty's dominions in the West Indies, and on the continent of South America, shall be allowed in vessels of the United States, by virtue of the next preceding article of this treaty, and the exportation of which, from the United States to every other foreign country, or place, shall not be entirely prohibited; and vessels of the United States shall, in like manner, have liberty to import from any of the aforesaid ports of the United States, into any of the aforesaid ports within the said provinces of Nova Scotia and New Brunswick, any of the articles, the growth, produce, or manufacture of the said United States, the exportation of which, from the said United States to the said provinces, shall be allowed in British vessels, and the importation of which into the said provinces, from every other foreign country, or place, shall not be entirely prohibited.

British vessels shall also have liberty to import from any of the aforesaid ports, within the provinces of Nova Scotia and New Brunswick, into any of the aforesaid ports of the United States, gypsum and grindstones, the produce or manufacture of the said provinces, and they shall likewise have liberty to import in the same manner any other article of the growth, produce, or manufacture of the said

provinces, the exportation of which from the said provinces to the United States, shall be allowed in vessels of the United States, and the importation of which into the said United States from every other foreign country, shall not be altogether prohibited. And vessels of the United States shall have liberty to export from the said provinces to the said United States, gypsum and grindstones, the produce or manufacture of the said provinces; and they shall likewise have liberty to export, in the same manner, any other article of the growth, produce, or manufacture of the said provinces, the exportation of which to every other foreign country shall not be entirely prohibited.

The vessels of either of the two parties employed in the trade provided for by this article, shall be admitted in the ports of the other party, as above mentioned, without paying any other or higher duties or charges, than those payable in the same ports by the vessels of such other party. The same duties shall also be paid, respectively, in the dominions of both parties, on the importation and on the exportation of the articles which may be imported or exported by virtue of this article, and the same bounties shall also be allowed on the exportation thereof, whether such importation or exportation shall be in vessels of the United States, or in British vessels.

ARTICLE D.

Whereas complaints have been made by divers inhabitants of the United States, that several slaves, their private property, were carried away from the United States contrary to the intentions of the first article of the treaty of peace and amity, concluded at Ghent, between the two high contracting parties, on the 24th day of December, one thousand eight hundred and fourteen: it is agreed that full compensation shall be made by the British government to the said complainants, for all slaves, their private property, who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions, whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, and who were afterwards removed or carried away by the said forces, whether such slaves, as aforesaid, were, at the date aforesaid, on shore, or on board any vessels lying in waters which, being within the territory or jurisdiction of the United States, were to be restored to them. And, for the purpose of truly ascertaining the number and value of the said slaves, three commissioners shall be appointed and authorized to meet and act in manner following, that is to say; one shall be appointed by the President of the United States, by and with the advice and consent of the Senate thereof, and one by his Britannic Majesty; and the said two commissioners shall agree on the choice of a third; or, if they cannot so agree, they shall each propose one person, and, of the two names so proposed, one shall be drawn by lot, in the presence of the two original commissioners. The three commissioners, thus appointed, shall first meet at the city of Washington, but shall have power to adjourn from place to place, as they shall see cause. They shall have power to appoint a secretary, and, before proceeding to act, shall respectively take the following

oath or affirmation, in the presence of each other; which oath, or affirmation, being duly taken and attested, shall be entered on the record of their proceedings; that is to say: "I, A. B. one of the commissioners appointed in pursuance of the article of the treaty of , between the United States of America and his Britannic Majesty, do solemnly swear, or affirm, that I will diligently, impartially, and carefully, examine, and, to the best of my judgment, according to justice and equity, decide, all such complaints or applications as, under the said article, shall be preferred to the said commissioners." Two of the said commissioners shall constitute a board, provided they be those named by the respective governments; and vacancies, caused by death, or otherwise, shall be filled up in the manner of the original appointments; and the new commissioners shall take the same oath, or affirmation, and do the same duties. Twelve months from the day on which the said commissioners shall form a board, are assigned for receiving complaints and applications; but they are, nevertheless, authorized, in any particular cases in which it shall appear to them reasonable and just to extend the said term for any term not exceeding six months after the expiration thereof. In examining the complaints and applications preferred to them by the owners of slaves, or their lawful attorneys or representatives, the said commissioners are empowered and required, in pursuance of the true intent and meaning of this article, to examine, on oath or affirmation, all such persons as shall come before them, touching the real number and value of the slaves alleged to have been carried away, as aforesaid; and, also, to receive in evidence, according as they may think consistent with equity and justice, written depositions, being duly authenticated, either according to existing legal forms, or in such other manner as the said commissioners shall see cause to require or allow.

The award of the said commissioners, or of any two of them, shall in all cases be final and conclusive, whether as to the number, the value, or the ownership of the slaves carried away as aforesaid. And his Britannic Majesty undertakes to cause the sum awarded to each and every owner, in lieu of his slave or slaves, as above described, to be paid without deduction, at such time or times, and at such place or places as shall be awarded by the said commissioners, and on condition of such releases being given as they shall direct; provided that no such payments shall be fixed to take place sooner than twelve months from the day of the exchange of the ratifications of this treaty. It is further agreed, that the said commissioners shall be respectively paid in such manner as shall be agreed between the two parties, such agreement to be settled at the time of the exchange of the ratifications of this treaty. And all other expenses attending the execution of the commission, shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the majority of the commissioners.

E.

Explanatory Memorandum.

The American Plenipotentiaries presented, for consideration, an article on the subject of certain fisheries. They stated, at the same time, that, as the United States considered the liberty of taking, drying, and curing fish, secured to them by the treaty of peace of 1783, as being unimpaired, and still in full force for the whole extent of the fisheries in question, whilst Great Britain considered that liberty as having been abrogated by war; and as, by the article now proposed, the United States offered to desist from their claim to a certain portion of the said fisheries; that offer was made with the understanding that the article now proposed, or any other on the same subject, which might be agreed on, should be considered as permanent, and, like one for fixing boundaries between the territories of the two parties, not to be abrogated by the mere fact of a war between them; or that, if vacated by any event whatever, the rights of both parties should revive, and be in full force, as if such an article had not been agreed to.

F.

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c. &c. and the President of the United States of America, being animated with an equal desire to remove, by amicable regulations, the inconveniences which have arisen from the difficulty of discriminating between the subjects of the two powers, respectively, have determined to proceed, without prejudice to the rights of either power, to frame such conventional arrangements as may obviate the evils which might hereafter again result from the circumstances above stated, to the public service, the commerce, or the subjects of either of the contracting parties. In pursuance of so desirable an object, his said Majesty and the President of the United States have nominated Plenipotentiaries, to discuss and sign a treaty to this effect.

His Majesty the King of the United Kingdom of Great Britain and Ireland, has nominated the Right Hon. Frederick John Robinson, &c. &c. &c. and Henry Goulburn, Esq. &c. &c. &c.; and the President of the United States has nominated Albert Gallatin, Esq. &c. &c. &c. and Richard Rush, Esq. who, having exchanged their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1.

The high contracting parties engage and bind themselves to adopt, without delay, and in the manner that may best correspond with their respective laws, such measures as may be most effectual for ex-

cluding the natural born subjects of either party from serving in the public or private marine of the other: Provided always, that nothing contained in this article shall be understood to apply to such natural born subjects of either power, as may have been naturalized by their respective laws, previous to the signature of the present treaty. And such measures, when adopted, shall be immediately communicated to each party, respectively.

ARTICLE 2.

For the better ascertaining the number of persons on either side that may fall within the exception contained in the preceding article, the high contracting parties engage to deliver, each to the other, within twelve months from the ratification of the present treaty, a list of all persons falling within the said exception, specifying the places of their birth, with the date of their becoming naturalized. And it is farther agreed, that none other than the persons whose names shall be included in the said lists, shall be deemed to fall within the said exception.

ARTICLE 3.

The high contracting parties, however, reserve to themselves the power to authorize and permit, by proclamation, their respective subjects or citizens to serve in the public or private marine of the other country. And it is hereby expressly understood, that, so long as such permission shall remain in force, it shall be competent for the government of the other power, notwithstanding the engagement set forth in the first article of this treaty, to admit the performance of the said service. *Provided, always,* That, whenever the power so granting permission to the said subjects or citizens to serve in the marine of the other, shall withdraw the same, notification thereof shall forthwith be made to the other contracting party, and, on receipt of such notification, the power receiving the same shall, forthwith, notify it in the most public and official manner, and shall use its utmost endeavors to restrain the said subjects of the other party from further serving in its public or private marine, and shall enforce the exclusion of such of the said subjects of the other power, as may then be in its service, as if no such permission had been promulgated.

ARTICLE 4.

In consideration of the stipulations contained in the preceding articles, it is agreed, by the high contracting parties, that, during the continuance of the present treaty, neither power shall impress or forcibly withdraw, or cause to be impressed or forcibly withdrawn, any person or persons from the vessels of the other power, when met upon the high seas, on any plea or pretext whatsoever. *Provided always,* That nothing contained in this article shall be construed to apply to the vessels of either power, which may be within the ports

or within the maritime jurisdiction of the other, and also provided that nothing herein contained shall be construed to impair or affect the established right of search, as authorized in time of war, by the law of nations.

ARTICLE 5.

The high contracting parties have agreed to extend the duration of the present treaty to ten years, and they reserve to themselves to concert, as to its renewal, at such convenient period, previous to its expiration, as may ensure to their respective subjects the uninterrupted benefit which they expect from its provisions: Provided always, that either Power may, if it deem it expedient, upon giving six months previous notice to the other, wholly abrogate and annul the present treaty.

ARTICLE 6.

It is agreed that nothing contained in the preceding articles shall be understood to affect the rights and principles on which the high contracting parties have heretofore acted, in respect to any of the matters to which these stipulations refer, except so far as the same shall have been modified, restrained, or suspended, by the said articles. And, whenever the present treaty shall cease to be in operation, either by the expiration of the term for which it is enacted, without any renewal of the same, or by the abrogation thereof, by either of the contracting parties, as hereinbefore provided, or (which God forbid) by any war between the high contracting parties; each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such treaty had ever been made.

G.—(*a.*)

Whenever one of the high contracting parties shall be at war, any vessel of the other party, sailing for a port, or place, belonging to an enemy of the first party, without knowing that the same is either besieged, blockaded, or invested, may be turned away from such port or place; but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless, after such notice, she shall again attempt to enter: but she shall be permitted to go to any other port or place she may think proper. No vessel, or cargo, shall be condemned for breach of a blockade, unless captured by one of the blockading ships; or unless she shall attempt to enter, after notice as aforesaid. Nor shall any vessel or goods of either party, that may have entered into such port or place, before the same was besieged, blockaded, or invested by the other, and be found therein, after the reduction or surrender of such place, be liable to confiscation; but shall be restored

to the owners, or proprietors thereof. And, in order to determine what characterises a blockade, it is agreed that denomination shall apply to a port where there is, by the disposition of the power which blockades it, with ships stationary, or sufficiently near, an evident danger in entering.

(*b.*)

Whereas differences have heretofore arisen, concerning the trading with the colonies of His Britannic Majesty's enemies, and the instructions given by His Majesty to his cruizers, in regard thereto; it is agreed that, whenever His Britannic Majesty shall be at war, all articles, not being contraband of war, may be freely carried from the ports of the United States to the ports of any colony, not blockaded, belonging to His Majesty's enemies; provided, such goods as are not of the growth, produce, or manufacture, of the United States, shall previously have been entered and landed in the United States, and the ordinary duties, on such articles, so imported for home consumption, shall have been paid, or secured to be paid, and the said goods, on re-exportation, shall, after the drawback, remain subject to a duty equivalent to not less than one per cent. ad valorem; and that the said goods and the vessels, conveying the same, shall, from the time of their clearance from the port of the United States, be *bona fide* the sole property of citizens of the United States; and, in like manner, that all articles, not being contraband of war, and being the growth or produce of the colonies of His Britannic Majesty's enemies, may be brought to the United States, and, after having been there landed, may be freely carried from thence to any foreign port, not blockaded; provided such goods shall previously have been entered and landed in the United States, and the ordinary duties on colonial articles so imported, for home consumption, shall have been paid, or secured to be paid; and that the said goods, except only mahogany and fustic, shall, on re-exportation, after the drawback, remain subject to a duty equivalent to not less than two per cent. ad valorem; and provided that the said goods, and the vessels conveying the same, be *bona fide* the sole property of citizens of the United States:

Provided, always, that this article, or any thing contained therein, shall not affect any question now, or hereafter, judicially pending, touching the legality, or illegality, of a direct trade from Europe, or other foreign countries, by citizens of the United States, with the colonies or possessions of His Britannic Majesty's enemies beyond the Cape of Good Hope, nor operate to the prejudice of any right belonging to either party; but that, after the expiration of the time limited for this treaty, the rights on both sides shall revive and be in full force.

(*c.*)

In order to regulate what is in future to be esteemed contraband of war, it is agreed, that, under the said denomination, shall be com-

prised all arms and implements serving for the purposes of war, by land or by sea, such as cannon, mortars, muskets, pistols, and other fire arms, petards, bombs, grenades, carcasses, saucisses, rockets, carriages for cannon, firelocks, musket rests, bandoliers, gunpowder, saltpetre, sulphur, matches, balls, and bullets, helmets, or head pieces, cuirasses, swords, pikes, halberts, lances, javelins, saddles, bridles, and other horse furniture, holsters, pouches, belts, and generally all other implements of war; excepting however, the quantity of the said articles which may be necessary for the defence of the ship, and of those who compose the crew; but all such articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy. But no vessel shall be detained on pretence of carrying contraband of war, unless some of the abovementioned articles are found on board of the said vessels at the time it is searched.

(*d.*)

In all cases where one of the high contracting parties shall be at war, the armed vessels belonging to such party shall not station themselves, nor rove, or hover, nor stop, search, or disturb the vessels of the other party, or the unarmed vessels of other nations, within the chambers formed by head lands, or within five marine miles from the shore belonging to the other party, or from a right line from one head land to another.

(*e.*)

Whenever one of the high contracting parties shall be at war, and where vessels of the other party shall be captured or detained by the ships of war or privateers of the belligerant, for any lawful cause, the said vessels shall be brought to the nearest or most convenient port; and such part only of the articles on board, as are subject to condemnation by the law of nations, shall be made prize; and the vessels, unless by that law also subject to condemnation, shall be at liberty to proceed with the remainder of the cargo, without any impediment.

In all cases of unfounded detention, or other contravention of the regulations stipulated by the present treaty, the owners of the vessel and cargo so detained, shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial. All proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships or cargoes. And, whenever sentence shall be pronounced against any vessel thus captured or detained, or against her cargo, or part thereof, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and a duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered, without the smallest delay, to the commander of

the said vessel, or to the owner thereof, or to the agent of either, on the payment of all legal fees and demands for the same.

The commanders of ships of war and privateers of the belligerant party shall, in searching of merchant ships of the other party, conduct themselves according to the acknowledged principles and rules of the law of nations, and as favorably, moreover, as towards the most friendly power that may remain neuter. The said commanders, their officers, and crews, shall forbear doing any damage to the subjects or citizens of the other party, or committing any outrage against them; and, if they act to the contrary, they shall be punished, and shall also be bound, in their persons and estates, to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall be compelled to give, before a competent judge, sufficient security, by at least two responsible sureties, who have no interest in the said privateer; each of whom, together with the said commander, shall be jointly and severally bound in the sum of two thousand two hundred and fifty pounds sterling, or of ten thousand dollars; or if such ship be provided with above one hundred and fifty seamen, or soldiers, in the sum of four thousand five hundred pounds sterling, or of twenty thousand dollars, to satisfy all damages and injuries which the said privateers, or officers, or men, or any of them, may do or commit during their cruise, contrary to the tenor of this treaty, or to the laws and instructions for regulating their conduct; and further, that in all cases of unlawful aggressions, the said commissions shall be revoked and annulled.

(*f.*)

The ships of war and privateers of the two nations, as well as their prizes, shall be treated, in their respective ports, as those of the most favored nation.

It shall not be lawful for any foreign privateers, who have commissions from any power or state at war with either of the two nations, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that power or state from whom they obtained their commissions.

(*g.*)

It is likewise agreed that the subjects of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions so to act, from any foreign power or state, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist, in the military service, any of the subjects or citizens of the other party. The laws against all such offences and aggressions shall be punctually executed; and if

any subject or citizen of the said parties, respectively, shall accept any foreign commission or letters of marque, for arming any vessel to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letter of marque, as a pirate.

H.—(*h.*)

In the event of a shipwreck happening in a place belonging to either of the high contracting parties, not only every assistance shall be given to the unfortunate persons, and no violence done to them, but also the effects belonging to them, and which may be saved either from on board the ship, or in any other manner whatever, shall not be concealed, nor detained, nor damaged, under any pretext whatever. On the contrary, the abovementioned effects and merchandise shall be preserved and restored to them, upon a suitable recompense being given to those who shall have assisted in saving their persons, vessels, or effects.

(*i.*)

It is expressly stipulated, that neither of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries and damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

(*k.*)

If at any time a rupture should take place, (which God forbid,) between the United States and his Britannic Majesty, neither the vessels and cargoes, nor other property of any kind, belonging to the individuals of each of the two nations, which may at the time be in the harbors, ports, or dominions, of the other party, nor the debts due from individuals of one of the two nations to individuals of the other, nor shares or moneys which they may have in the public funds, or in the public or private banks, shall be sequestered or confiscated. And the merchants and others of each of the two nations, residing in the dominions of the other, shall, in no case, be detained as prisoners of war, but they shall be permitted to remove, with their families, effects, and property; each government having, nevertheless, the right, during their remaining in its dominions, to make such regulations, and to take such precautions, as it may deem necessary, with respect to such persons.

No. 4.

Protocol of the Fourth Conference between the American and British Plenipotentiaries, held at Whitehall, on Friday, the 25th of September, 1818.

PRESENT,—Mr. Gallatin,
Mr. Rush,
Mr. Robinson,
Mr. Goulburn.

Explanations were asked, and given, respecting some of the articles presented by the American Plenipotentiaries at the last conference.

The American Plenipotentiaries, after observing that the measures already adopted, and the proposals formerly made, by the United States, could leave no doubt of their constant and anxious desire to arrange, by amicable regulations, the subject of impressment, declared their readiness to agree, with some amendments, which they submitted,(A.) to the projet proposed by the British Plenipotentiaries, under a full expectation that an arrangement, thus founded on mutual confidence, could not fail to have a happy effect, both as regarding its immediate object, and in confirming the amicable relations so happily subsisting between the two countries.

It was agreed to meet again on Tuesday, the 6th of October.

ALBERT GALLATIN,
RICHARD RUSH,
FREDERICK JOHN ROBINSON,
HENRY GOULBURN.

A.

Amendments proposed.

All words between crotchets to be struck out.

1.
2. settle
3. differences

4. employment by either of the two powers of the subjects or citizens of the other, in their public or private marine, and from the practice of impressment,

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c. &c. &c. and [the President of][1] the United States of America, being animated with an equal desire to [remove,][2] by amicable regulations, the [3][inconveniences] which have arisen from the [4][difficulty of discriminating between the subjects of the two powers, respectively,] have determined to proceed, without prejudice to the rights of either power, to frame such conventional arrangements as may obviate the evils which might hereafter again result from the [circum-

5. causes

6.

stances][5] above stated, [to the public service, the commerce, or the subjects, of either of the contracting parties.][6] In pursuance of so desirable an object, his said Majesty and the President of the United States, have nominated Plenipotentiaries to discuss and sign a Treaty to this effect.

His Majesty the King of the United Kingdom of Great Britain and Ireland, has nominated the Right Honorable Frederick John Robinson, &c. &c. &c. and Henry Goulburn, Esquire, &c. &c. &c.; and the President of the United States has nominated Albert Gallatin, Esquire, &c. &c. &c. and Richard Rush, Esquire, who, having exchanged their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1.

1. respectively from serving in their public or private marine, the natural born subjects or citizens of the other party,

2. or citizens
3. shall
4. with their own consent
5. the
6. of either power
7. exchange of ratifications

The high contracting parties engage and bind themselves to adopt, without delay, and in the manner that may best correspond with their respective laws, such measures as may be most effectual for excluding [1][the natural born subjects of either party from serving in the public or private marine of the other;] provided, always, that nothing contained in this article shall be understood to apply to such natural born subjects [2] of either power, as [may][3] have been naturalized [4] by [5][their] respective laws, [6] previous to the [7][signature] of the present treaty. And such measures, when adopted, shall be immediately communicated to each party, respectively.

ARTICLE 2.

1. eighteen

For the better ascertaining the number of persons, on either side, that may fall within the exception contained in the preceding article, the high contracting parties engage to deliver, each to the other, within [twelve][1] months from the ratifica-

2. as far as it may be found practicable to obtain it, of the seamen

3. no natural born subject or citizen of either power, whose name shall not

4. unless he shall produce proof of his having been duly naturalized prior to the exchange of ratifications of this treaty.

1. by law
2. or otherwise, either generally or in special cases,

3. or citizens

4. or citizens
5. on their return to port, from the voyages or service in which they may then be engaged, or sooner, if practicable,

tion of the present treaty, a list [2] [of all persons] falling within the said exception, specifying the places of their birth, with the date of their becoming naturalized. And it is further agreed, that [3][none other than the persons whose names shall] be included in the said lists, shall be deemed to fall within the said exception.[4]

ARTICLE 3.

The high contracting parties, however, reserve to themselves the power to authorize and permit,[1] by proclamation,[2] their respective subjects or citizens to serve in the public or private marine of the other country. And it is hereby expressly understood, that, so long as such permission shall remain in force, it shall be competent for the government of the other power, notwithstanding the engagement set forth in the first article of this treaty, to admit the performance of the said service: Provided, always, that, whenever the power so granting permission to the said subjects or citizens to serve in the marine of the other, shall withdraw the same, notification thereof shall forthwith be made to the other contracting party, and on receipt of such notification, the power receiving the same shall forthwith notify it in the most public and official manner, and shall use its utmost endeavors to restrain the said subjects [3] of the other party from further serving in its public or private marine, and shall enforce the exclusion of such of the said subjects [4] of the other power, as may then be in its service,[5] as if no such permission had been promulgated.

ARTICLE 4.

[1][In consideration of the stipulations contained in the preceding ar-

1.

2. or any where without the ordinary jurisdiction of either of the two powers, as acknowledged by the law of nations,

3. impair or affect the right of either power, to withdraw its natural born subjects or citizens, not falling within the exception mentioned in the preceding articles, from any vessel lying within its ports or within its ordinary maritime jurisdiction, as acknowledged by the law of nations.

4. (*a*.)

(*a*.) See 6th article, 2.

ticles,] it is agreed by the high contracting parties, that, during the continuance of the present treaty, neither power shall impress or forcibly withdraw, or cause to be impressed or forcibly withdrawn, any person or persons, from the vessels of the other power, when met upon the high seas, [3] on any plea or pretext whatsoever: Provided, always, that nothing contained in this article shall be construed to [3][apply to the vessels of either power which may be within the ports or within the maritime jurisdiction of the other:] [4][and also, provided, that nothing herein contained shall be construed to impair or affect the established right of search, as authorized in time of war by the law of nations.]

ARTICLE 5.

The high contracting parties have agreed to extend the duration of the present treaty to ten years, and they reserve to themselves to concert as to its renewal, at such convenient period, previous to its expiration, as may insure to their respective subjects [1] the uninterrupted benefit which they expect from its provisions: Provided, always, that either power may, if it deem it expedient, upon giving six months' previous notice to the other, wholly abrogate and annul the present treaty.

1. or citizens

ARTICLE 6.

It is agreed that nothing contained in the preceding articles, shall be understood to [1] affect the rights and principles on which the high contracting parties have heretofore acted in respect to any of the matters to which these stipulations refer,[2] except so far as the same shall have been modified, restrained, or suspended, by the said articles. And whenever the present treaty shall

1. impair, or

2. nor any of the belligerant or neutral rights of either party, as acknowledged by the law of nations,

cease to be in operation, either by the expiration of the term for which it is enacted, without any renewal of the same, or by the abrogation thereof, by either of the contracting parties, as herein before provided, or (which God forbid,) by any war between the high contracting parties, each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such treaty had ever been made.

No. 5.

Protocol of the fifth Conference held between the American and British Plenipotentiaries, at Whitehall, on the 6th of October.

PRESENT—Mr. Gallatin,
Mr. Rush,
Mr. Robinson,
Mr. Goulburn.

The protocol of the preceding conference was agreed upon and signed.

The British plenipotentiaries gave in the five annexed articles, on the fisheries, the boundary, the Mississippi, the intercourse between Nova Scotia and the United States, and the captured slaves. (A, B, C, D, E.)

It was agreed to meet again on the 9th instant.

ALBERT GALLATIN,
RICHARD RUSH,
FREDERICK JOHN ROBINSON,
HENRY GOULBURN.

ARTICLE A.

It is agreed that the inhabitants of the United States shall have liberty to take fish, of every kind, on that part of the western coast of Newfoundland which extends from Cape Ray to the Quinpon islands, and on that part of the southern and eastern coasts of Labrador which extends from Mount Joly to Huntingdon Island; and it is further agreed that the fishermen of the United States shall have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks, of the said south and east coasts of Labrador, so long as the same shall remain unsettled; but, as soon as the same, or any part of them, shall

be settled, it shall not be lawful for the said fishermen to dry or cure fish, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

And it is further agreed, that nothing contained in this article shall be construed to give to the inhabitants of the United States any liberty to take fish within the rivers of his Britannic Majesty's territories, as above described; and it is agreed, on the part of the United States, that the fishermen of the United States resorting to the mouths of such rivers, shall not obstruct the navigation thereof, nor wilfully injure nor destroy the fish within the same, either by setting nets across the mouths of such rivers, or by any other means whatever.

His Britannic Majesty further agrees, that the vessels of the United States, bona fide engaged in such fishery, shall have liberty to enter the bays and harbors of any of his Britannic Majesty's dominions in North America, for the purpose of shelter, or of repairing damages therein, and of purchasing wood and obtaining water, and for no other purpose; and all vessels so resorting to the said bays and harbors, shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein.

It is further well understood, that the liberty of taking, drying, and curing fish, granted in the preceding part of this article, shall not be construed to extend to any privilege of carrying on trade with any of his Britannic Majesty's subjects, residing within the limits hereinbefore assigned for the use of the fishermen of the United States, for any of the purposes aforesaid.

And in order the more effectually to guard against smuggling, it shall not be lawful for the vessels of the United States, engaged in the said fishery, to have on board any goods, wares, or merchandise, whatever, except such as may be necessary for the prosecution of the fishery, or the support of the fishermen whilst engaged therein, or in the prosecution of their voyages to and from the said fishing grounds. And any vessel of the United States which shall contravene this regulation may be seized, condemned, and confiscated, together with her cargo.

ARTICLE B.

It is agreed that a line drawn from the most northwestern point of the Lake of the Woods, along the forty-ninth parallel of latitude, or if the said point shall not be in the forty-ninth parallel of north latitude, then, that a line, drawn due north or south, as the case may be, until it shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along, and with, the said parallel, shall be the line of demarcation between the territories of his Britannic Majesty and those of the United States, and that the said line shall form the southern boundary of the said territories of his Britannic Majesty, and the northern boundary of the territories of the United States, from the said Lake of the Woods to the Stoney Moun-

tains; and, in order to prevent any disputes as to the territorial rights of either of the contracting parties, on the northwest coast of America, or any where to the westward of the Stoney Mountains, it is agreed, that so much of the said country as lies between the forty-fifth and forty-ninth parallels of latitude, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, shall be free and open to the subjects and citizens of the two states, respectively, for the purpose of trade and commerce; it being well understood that, although by virtue of this arrangement, the two high contracting parties agree not to exercise as against each, any other sovereign or territorial authority within the above mentioned country, lying between the forty-fifth and forty-ninth parallels of latitude, this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any territorial authority in any part of the country lying within the said limits: nor shall it be taken to affect the claim of any other power or state to any part of the said country—the only object of the two high contracting parties being to prevent disputes and differences between themselves.

ARTICLE C.

It is further agreed, that the subjects of his Britannic Majesty, shall have and enjoy the free navigation of the river Mississippi, from its source to the ocean, and shall at all times have free access from such place, as may be selected for that purpose, in his Britannic Majesty's territories, to the river Mississippi, with their goods, wares, and merchandise, the importation of which, into the United States, shall not be entirely prohibited, on the payment of the same duties as would be payable on the importation of the same article into the Atlantic ports of the United States.

ARTICLE D.

British vessels shall have liberty to export, from any of the ports of the United States to which any foreign vessels are permitted to come, to the ports of Halifax, in his Britannic majesty's province of Nova Scotia, to the port of St. John's, in his Britannic majesty's province of New Brunswick, and to any other port within the said provinces of Nova Scotia or New Brunswick, to which vessels of any other foreign nation shall be admitted, the following articles, being of the growth, produce, or manufacture, of the United States, viz: scantling, planks, staves, heading-boards, shingles, hoops, horses, neat cattle, sheep, hogs, poultry, or live stock of any sort, bread, biscuit, flour, peas, beans, potatoes, wheat, rice, oats, barley, or grain of any sort, pitch, tar, turpentine, fruits, seeds, and tobacco.

And vessels of the United States shall, in like manner, have liber-

ty to import, from any of the aforesaid ports of the United States, into any of the aforesaid ports within the said provinces of Nova Scotia and New Brunswick, the abovementioned articles, being of the growth, produce, or manufacture, of the United States.

British vessels shall also have liberty to import, from any of the aforesaid ports, within the provinces of Nova Scotia and New Brunswick, into any of the aforesaid ports of the United States, gypsum and grindstones, or any other articles, being of the growth, produce, or manufacture, of the said provinces, and, also, any produce or manufacture of any part of his Britannic majesty's dominions, the importation of which, into the United States, shall not be entirely prohibited.

And vessels of the United States shall have liberty to import from the said provinces, to the said United States, slates, gypsum, and grindstones, or any other article, being of the growth, produce, or manufacture, of any part of his Britannic majesty's dominions, the importation of which into the United States, from any other place, shall not be entirely prohibited.

The vessels of either of the two parties, employed in the trade provided for by this article, shall be admitted in the ports of the other party, as abovementioned, without paying any other or higher duties, or charges, than those payable in the same ports by the vessels of such other party. The same duties shall also be paid, respectively, in the dominions of both parties, on the importation and on the exportation of the articles which may be imported or exported, by virtue of this article, and the same bounties shall also be allowed on the exportation thereof, whether such importation or exportation shall be in vessels of the United States or in British vessels.

ARTICLE E.

Whereas it was agreed by the first article of the treaty of Ghent, that "all territory, places, and possessions, whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery, or other public property, originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property:" And whereas doubts have arisen whether certain slaves, originally captured in certain forts and places, belonging to the United States, and removed therefrom, but remaining within the territories of the United States, or on board the ships of his Britannic Majesty, lying within the harbors of the United States at the time of the exchange of the ratifications of the said treaty, are to extend under the above recited provisions of the said treaty: The high contracting parties do

hereby agree to refer the said doubts to some friendly sovereign or state, to be named for that purpose; and the high contracting parties engage to consider the decision of such friendly sovereign or state to be final and conclusive on all the matters so referred.

No. 6.

LONDON, *October 7th*, 1818.

Mr. Gallatin and Mr. Rush present their compliments to Mr. Robinson and Mr. Goulburn, and beg leave to send them the enclosed paper, containing some remarks on the articles handed to them at the conference yesterday. They are to be considered as unofficial, according to the intimation given yesterday, when they were promised, and have been drawn up merely under the hope that, by possessing the British Plenipotentiaries of some of the views of the American Plenipotentiaries, before the next meeting on the 9th, the progress of the negotiation may be accelerated.

Observations, &c.—Fisheries.

The American Plenipotentiaries are not authorized by their instructions to assent to any article on that subject, which shall not secure to the inhabitants of the United States the liberty of taking fish of every kind on the southern coast of Newfoundland, from Cape Ray to the Ramian Islands, and on the coasts, bays, harbors, and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Belle Isle; and thence, northwardly, indefinitely, along the coast: and, also, the liberty of drying and curing fish in any of the unsettled bays, harbors, and creeks, of Labrador, and of the southern coast of Newfoundland, as above described; with the proviso respecting such of the said bays, harbors, and creeks, as may be settled.

The liberty of taking fish within rivers is not asked. A positive clause to except them is unnecessary, unless it be intended to comprehend, under that name, waters which might, otherwise, be considered as bays or creeks. Whatever extent of fishing ground may be secured to American fishermen, the American Plenipotentiaries are not prepared to accept it on a tenure, or on conditions different from those on which the whole has heretofore been held. Their instructions did not anticipate that any new terms or restrictions would be annexed, as none were suggested in the proposals made by Mr. Bagot to the American government. The clauses forbidding the spreading of nets, and making vessels liable to confiscation, in case any articles not wanted for carrying on the fishery should be found on board, are of that description, and would expose the fishermen to endless vexations.

Mississippi.

The American Plenipotentiaries are not authorized to agree to any condition that would bring the British in contact with the Mississippi. The right to the navigation of that river could only be derived from the treaty of 1783; and, if viewed as a matter of compromise, that right is much less valuable and important than the portion of the fisheries which the United States would lose by the agreement, even on the terms proposed by them.

Boundary.

That portion of the article which relates to the country west of the Stoney Mountains, cannot be agreed to in its present shape. The American Plenipotentiaries cannot consent to throw in a common stock that part only of the country to which the United States deny the claim of Great Britain, and which lies within the same latitudes as their own territories east of the Stone" Mountains; thus, also, implying the exclusion of their citizens from the trade on the Northwest Coast of America, (north of 49°,) which they have enjoyed without interruption for a number of years, and as early as the British.

Nor are they authorized to agree to expressions implying a renunciation of territorial sovereignty, although perfectly disposed not to insist on an extension of the line of demarcation to that country. They will propose either that the whole of the article relating to that subject, and immediately following the words, *to the Stoney Mountains*, should be omitted, inserting in lieu thereof a proviso similar to what had, on former occasions, been agreed to, viz: "But nothing in the "present article shall be construed to extend to the Northwest "Coast of America, or to territories belonging to or claimed by "either party on the continent of America westward of the Stoney Mountains." Or, that the proposed article should be amended in the manner stated in the enclosed copy.

Slaves.

The American Plenipotentiaries had hoped that this subject might have been arranged without a reference to a friendly power. If this cannot be done, they will agree to the reference; observing, however, that a change in the phraseology will be necessary, so as to bring the whole claim before the foreign sovereign. They are also authorized to agree that the Emperor of Russia should, by the article, be designated as the umpire.

No. 7.

Protocol of the sixth Conference between the American and British Plenipotentiaries, held at Whitehall, on the 9th of October, 1818.

PRESENT—Mr. Gallatin,
Mr. Rush,
Mr. Robinson.

The American Plenipotentiaries declared that they could not agree to the article upon the fisheries brought forward by the British Plenipotentiaries at the preceding conference, nor to that respecting the navigation of the Mississippi, nor to any article that would bring the British in contact with that river.

They also stated that they could not take into consideration the article respecting the intercourse with Nova Scotia and New Brunswick, unconnected with the subject of the British West Indies.

They presented several amendments (A, B,) to the articles respecting the boundary line and slaves carried away, proposed at the last conference by the British Plenipotentiaries.

It was agreed to meet again on Tuesday, the 13th instant.

ALBERT GALLATIN,
RICHARD RUSH,
FREDERICK JOHN ROBINSON,
HENRY GOULBURN.

ARTICLE.

A.

It is agreed that a line, drawn from the most northwestern point of the Lake of the Woods, along the forty-ninth parallel of latitude, or if the said point shall not be in the 49th parallel of north latitude, then that a line, drawn[1] due north or south, as the case may be, until[2] [it] shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of his Britannic Majesty and those of the United States, and that the said line shall form the southern boundary of the said territories of his Britannic Majesty, and the northern boundary of the territories of the United States, from the said Lake of the Woods to the Stoney

[1] From the said point.
[2] The said line.

Mountains,* and[3] [in order to prevent any disputes as to the territorial rights of either of the contracting parties on the Northwest Coast of America, or any where to the westward of the Stoney Mountains, it is agreed that so much of the said country as lies between the 45th and 49th parallels of latitude,] together with its harbors, bays, and creeks, and the navigation of all rivers within the same, shall be free and open to the subjects and citizens of the two[4] [states] respectively, for the purpose of trade and commerce, it being well understood, that[5] [although by virtue of this arrangement, the two high contracting parties agree not to exercise as against each other, any other sovereign or territorial authority within the above mentioned country, lying between the 45th and 49th parallels of latitude,] this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any territorial authority in any part of the country,[6] [lying within the said limits,] nor shall it be taken to affect the claim of any other power or state to any part of the said country, the only object of the two high contracting parties being to prevent disputes and differences between themselves.

[3] It is further agreed, that so much of the country on the Northwest Coast of America, or any where to the westward of the Stoney Mountains, as may be claimed by, or be in the possession of either of the two parties.

[4] Powers.

[5] ——.

[6] Aforesaid.

ARTICLE.

Whereas it was agreed, by the first article of the treaty of Ghent, that "all territory, places, and possessions, whatsoever, taken by

* Or all the words that follow to be omitted, and the following to be inserted in lieu thereof, viz:

"But nothing in the present article shall be construed to extend to the Northwest Coast of America, or to territories belonging to, or claimed by, either party, on the continent of America, westward of the Stoney Mountains."

either party from the other, during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery, or other public property, originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves, or other private property;" and whereas, [1][doubts have arisen, whether certain slaves, originally captured in certain forts and places belonging to the United States, and removed therefrom, but remaining within the territories of the United States, or on board the ships of his Britannic Majesty lying within the harbors of the United States, at the time of the exchange of the ratifications of the said treaty, are to be restored under the above recited provisions of the above treaty;] the high contracting parties do hereby agree to refer the said [2][doubts to some friendly sovereign, or state, to be named for that purpose,] and the high contracting parties engage to consider the decision of [3][such friendly sovereign or state to be] final and conclusive on all the matters referred.

B.

1. Under the aforesaid article, the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all slaves, who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or posessions whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, and who were afterwards removed or carried away by the said forces; whether such slaves were, at the date aforesaid, on shore, or on board any British vessels lying in waters within the territory or jurisdiction of the United States. And whereas differences have arisen, whether, by the true intent and meaning of the aforesaid article of the treaty of Ghent, the United States are entitled to the restitution of, or full compensation for all slaves as above described.

2. differences to his Imperial Majesty, the Emperor of all the Russias

3. his said Imperial Majesty

No. 8.

Mr. Gallatin and Mr. Rush present their compliments to Mr. Robinson and Mr. Goulburn, and beg leave to state, that, on full consideration, since the meeting on Friday, they do not feel themselves authorized to consent to the condition annexed to the second article of the projet on impressment, which declares that "none oth-"er than the persons whose names shall be included in the said lists, "shall be deemed to fall within the said exception." Their reasons are stated in the enclosed unofficial memorandum

Mr. G. and Mr. R. give this notice of their disagreement, previous to the meeting fixed for to-morrow. in the hope that, if the alteration which they have heretofore proposed. should not, contrary to their expectations, be found acceptable, some other amendment or modification may suggest itself to the British Plenipotentiaries, rather than that the arrangement should fall through.

October 12, 1818.

MEMORANDUM.

Lists of Seamen naturalized.

It is required by the British Plenipotentiaries that persons, whose names shall not appear on the lists of naturalized seamen, to be mutually furnished by the two governments, shall not be considered as falling within the exception contemplated by the agreement; that is to say, that such persons, although naturalized, shall, respectively, be excluded from the public or private marine of either party.

But it is impracticable for the government of the United States to procure complete lists of naturalized seamen, for the following reasons:

Prior to the year 1790, aliens might be naturalized according to the laws of the several states; and it is known, that in some of them, Pennsylvania for instance, the naturalization took place before Justices of the Peace. In these cases, and also when the records of a Court may have been destroyed, it would be found difficult, if not impossible, to obtain any other evidence of the naturalization than the certificate given at the time to the naturalized person.

Since the year 1790, although the term of previous residence has varied, the mode has been uniform. Aliens have been naturalized only in conformity with the laws of the United States, and before such courts of record as were designated by those laws. But that designation embraced not only the Courts of the United States, properly so called, but also the Courts of the several States, including even those of a subordinate jurisdiction, amounting, together, to several hundred. It is necessary to add, that minor children of naturalized persons, if dwelling in the United States, become also, by virtue of their father's naturalization, *ipso facto*, naturalized themselves.

If an attempt is made to compile the lists required from the records of the several Courts, a first and leading objection is, that the Courts of the several states, not being bound to obey, in that respect,

the orders of the General Government, it will be optional with them whether the clerks shall abstract, from the records of thirty years, those of the naturalization of aliens, which are interspersed among them, and transmit those abstracts to the government of the United States.

But, supposing that every one of those Courts should comply with the order, the lists must contain the names of all the British natural born subjects, (and for the years 1790 to 1795, during which time no discrimination of birth-place was recorded, of all aliens,) who have been naturalized for a period of thirty years, without pointing out those who were seamen, no specification of the profession or calling of the parties ever having been required by law to be entered on the records. And those lists, although containing the names of many thousand persons, not seamen, would be defective, by the total omission of the names of the minor children above mentioned, their names not having been directed, by law, to make part of the record, and the burthen of the proof of their citizenship resting with themselves.

There is but one other source of information from which the lists required might be partially obtained.

The collectors of customs have been required, by a law passed in 1796, to keep books, in which the names of seamen, citizens of the United States, should, on their application, be entered. It is known that this law was never fully complied with, and that the returns are defective. But, even in the cases where the collectors have complied with it, the registers must, necessarily, be incomplete, since no names were entered but on the application of the parties; besides which, the names of the native citizens were not, by the law, directed to be distinguished from those of naturalized persons.

From this statement of facts, it follows that, although partial lists may be compiled, which will contain the names of many naturalized British seamen, those lists will still be very imperfect. If the condition now urged was complied with, the consequence would be, that aliens, naturalized prior to the treaty, who have become citizens of the United States on the faith of a public law, and are, thereby, entitled to every political and civil right enjoyed by native citizens, (that of becoming President or Vice President of the United States only excepted) would, by a retrospective, and therefore unconstitutional act, be deprived, not of a privilege merely political, but of the right of exercising the only profession they have, for the support of themselves and their families. And minors, too, who have never known any other country but America, would be precluded from following the seas when they came to a proper age.

The American Plenipotentiaries cannot assent to a condition involving such results. They are expressly bound, by their instructions, whilst admitting, as a general principle, that neither government shall employ, in its public or private marine, the natural born subjects or citizens of the other country, to except from its operation all those who shall have been naturalized prior to the treaty. That exception has been mutually assumed, as one of the foundations

of the agreement; and the effect of the condition alluded to, would necessarily be, that a portion only of the persons thus previously naturalized in the United States, would be embraced by the exception.

The American Plenipotentiaries beg leave to add, that the condition appears to them unnecessary. According to that which they propose, every British natural born subject, not included in the lists, and claiming to be employed as a seaman on board an American vessel, must adduce proofs of his having been naturalized prior to the exchange of ratifications. He must produce either the original certificate of his naturalization, or an authentic copy, attested as such by the proper Court. If claiming as a minor, by virtue of his father's naturalization, he must, in addition, produce legal proofs of the fact. In the cases for which the condition is intended to provide, proofs may always be given, similar to those which, in every case, would be admitted as conclusive by the laws of Great Britain, as well as by those of the United States.

Finally, the right reserved to either party of annulling the agreement at will, affords security in this case, as well as in all others. This reservation, which had not been contemplated by the Government of the United States, has been acceded to by their Plenipotentiaries, in order to remove every objection to the arrangement, and to avoid the necessity of entering into details respecting the measures necessary to carry it into effect. Great Britain being, thereby, effectually secured against every risk, and holding in her own hands a complete remedy against deviations from the terms of the compact in all cases, no necessity appears to exist for an additional security on this particular point.

No. 9.

Protocol of the seventh Conference between the American and British Plenipotentiaries, held at Whitehall, on the 13th of October, 1818.

PRESENT—Mr. Gallatin,
Mr. Rush,
Mr. Robinson,
Mr. Goulburn.

The British plenipotentiaries acquiesced in the amendment proposed at the preceding conference by the American plenipotentiaries, in the article respecting captured slaves, except as far as related to the insertion, in the article, of the name of any particular power.

They brought forward new articles, (A, B, C, D, E,) respecting the fisheries, the boundary, impressment, and maritime points, and accompanied the articles D, with the annexed memorandum E. They agreed to the omission of the article respecting the Mississippi.

It was agreed to meet again on Monday, the 19th instant.

ALBERT GALLATIN,
RICHARD RUSH,
FREDERICK JOHN ROBINSON,
HENRY GOULBURN.

ARTICLE A.

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish, on certain coasts, bays, harbors, and creeks, of his Britannic Majesty's dominions in America: It is agreed between the high contracting parties, that the inhabitants of the said United States shall have, for ever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray, to the Ramian Islands, on the western and northern coast of Newfoundland, from the said Cape Ray, to the Quinpon islands, on the shores of the Magdalen islands, and also on the coasts, bays, harbors, and creeks, from Mount Joly, on the southern coast of Labrador, to and through the streights of Bell Isle, and thence, northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay company; and that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled bays, harbors, and creeks, of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, for ever, any liberty heretofore enjoined or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors, of his Britannic Majesty's dominions in America, not included within the above mentioned limits: *Provided, however*, That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

ARTICLE B.

It is agreed that a line, drawn from the most northwestern point of the Lake of the Woods, along the forty-ninth parallel of north latitude, or if the said point shall not be in the forty-ninth parallel of north latitude, then, that a line, drawn from the said point, due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of his Britannic Majesty and those of the United States; and that the said line shall form the southern boundary of the said territories of his Britannic Majesty, and the northern boundary of the territories of the United States, from the Lake of the Woods to the Stoney Mountains. But nothing in the pre-

ceding part of this article shall be construed to extend to the north-west coast of America, or to territories belonging to, or claimed by, either party, on the continent of America westward of the Stoney Mountains; and any such country as may be claimed by either party, westward of the Stoney Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open to the vessels, subjects, or citizens, of the two powers, respectively, for the purposes of trade and commerce. It being well understood that nothing contained in this article shall be taken to affect the claims of any other power or state to any part of the said country, the only object of the two high contracting parties being to prevent disputes and differences between themselves.

ARTICLE C.

His Majesty the King of the United Kingdom of Great Britain, &c. &c. &c. and the United States of America, animated with an equal desire to prevent, by conventional regulations, the recurrence of inconveniences, which have heretofore arisen from the employment of the natural born subjects of His Britannic Majesty in the public or private marine of the United States, and from the employment of the natural born citizens of the United States in the public or private marine of His Britannic Majesty, have nominated Plenipotentiaries to negotiate a convention for this desirable object.

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c. &c. &c. has nominated the Right Honorable Frederick John Robinson, &c. &c. &c. and Henry Goulburn, Esquire, &c. &c., and the President of the United States has nominated Albert Gallatin, Esquire, &c. &c. &c. and Richard Rush, Esquire, &c. &c. &c. who, having exchanged their full powers, found in good and due form, have agreed upon, and signed, the following articles:

ARTICLE 1.

The high contracting parties engage and bind themselves to adopt, respectively, without delay, the most effectual measures for excluding, respectively, from serving either in their public or private marine, the natural born subjects and the natural born citizens of the other party, that is to say: His Majesty the King of the United Kingdom of Great Britain and Ireland, for excluding the natural born citizens of the United States from serving either in the public or private marine of his dominions; and the United States, for excluding the natural born subjects of His Britannic Majesty from serving either in the public or private marine of the United States; and such measures, when adopted, shall be immediately communicated by each party to the other: Provided, always, That nothing contained in this article shall be understood to apply to any seamen, being natural born subjects of His Britannic Majesty, or natural born citizens of the United States, who have been naturalized by the respective laws of either Power, previous to the signature of the present Convention.

ARTICLE 2.

The high contracting parties engage to deliver, each to the other, within eighteen months from the ratification of the present Convention, a list, as far as it may be found practicable to obtain it, containing the names and description of the seamen falling within the said exception, specifying the places of their birth, and the date of their becoming naturalized. And it is further agreed, that no person, whose name shall not be included in the said lists, shall be deemed to fall within the said exceptions.

ARTICLE 3.

It is, however, agreed, that, if one of the high contracting parties shall, at any time during the continuance of this Convention, think fit to notify to the other that it does not insist upon the exclusion of its natural born subjects, or natural born citizens, from the public or private marine of the other party, it shall be competent to the said other party, notwithstanding the engagement set forth in the first article of this Convention, no longer to exclude the said subjects or citizens: Provided always, that, whenever the Power which has made the said notification shall recal the same, its recal shall be immediately communicated to the other contracting party; and, on receipt of such communication, the Power receiving the same shall, forthwith, make it known, in the most public and official manner, and shall use its utmost endeavors to restrain the said subjects or citizens of the other party from further serving in its public or private marine, and shall enforce the exclusion of such of the said subjects or citizens of the other power as may then be in its service, as if no such stipulations as are contained in the preceding part of this article had been agreed to.

ARTICLE 4.

It is agreed by the high contracting parties, that, during the continuance of the present Convention, neither power shall impress or forcibly withdraw, or cause to be impressed or forcibly withdrawn, any person or persons from the vessels of the other party, when met upon the high seas, or upon the narrow seas, on any plea or pretext whatsoever: Provided always, that nothing contained in this article shall be construed to impair or affect the rights of either power to impress, or forcibly withdraw, or cause to be impressed, or forcibly withdrawn, its natural born subjects or natural born citizens, not falling within the exceptions mentioned in the preceding articles, from any vessel being within its ports, or within its ordinary maritime jurisdiction, as acknowledged by the law of nations; and also provided, that nothing herein contained shall be construed to impair or affect the established right of search, as authorized in time of war by the law of nations.

ARTICLE 5.

The high contracting parties have agreed to extend the duration of the present treaty to ten years, and they reserve to themselves to conce t as to its renewal, at such convenient period, previous to its expi ation, as may ensure to their respective subjects or citizens, as aforesaid, the uninterrupted benefit which they expect from its provisions: Provided, always, that either power may, if it deem it expedient, upon giving six months' previous notice to the other, wholly abrogate and annul the present treaty.

ARTICLE 6.

It is agreed that nothing contained in the preceding articles shall be understood to impair or affect the rights and principles on which the high contracting parties have heretofore acted in respect to any of the matters to which these stipulations refer, except so far as the same shall have been modified, restrained, or suspended, by the said articles. And whenever the present convention shall cease to be in operation, either by the expiration of the term for which it is enacted, without any renewal of the same, or by the abrogation thereof by either of the contracting parties, as herein before provided, or (which God forbid) by any war between the high contracting parties, each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such convention had ever been made.

D.

ARTICLE (*a.*)

Whenever one of the high contracting parties shall be at war, any vessel of the other party, sailing for a port or place belonging to an enemy of the party at war, without knowing that the same is blockaded, may be turned away from such port or place; but she shall not be detained on account of such blockade, unless, after such notice, she shall again attempt to enter. And, in order to determine what characterises a blockade, it is agreed that that denomination shall apply only to a port where there is, by the disposition of the power which blockades it with a naval force, stationary or sufficiently near, an evident danger in entering.

ARTICLE (*b.*)

In order to regulate what is in future to be deemed contraband of war, it is agreed that, under the said denomination shall be comprised all arms and implements, serving for the purposes of war, by land or by sea, such as cannon, mortars, muskets, pistols, and other

fire arms, petards, bombs, grenades, carcasses, saucisses, rockets, carriages for cannon, firelocks, musket-rests, bandoliers, gunpowder, saltpetre, matchballs, and bullets, helmets or head pieces, cuirasses, swords, pikes, halberts, lances, javelins, saddles, bridles, and other horse furniture, holsters, pouches, belts, and, generally, all other implements of war; as, also, timber for shipbuilding, tar, or rosin, copper in sheets, sails, hemp, and cordage, and, generally, whatever may serve directly to the equipment of vessels, unwrought iron and planks only excepted; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy.

(*c.*)

In all cases of unfounded detention, or other contravention of the regulations stipulated by the present treaty, the owners of the vessel and cargo detained shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial. All proper measures shall be taken to prevent delays in deciding the cases of ships or cargoes so brought in for adjudication, and in payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships or cargoes. And whenever sentence shall be pronounced against any vessel thus captured or detained, or against her cargo or any part thereof, a duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered, without delay, to the commanders of the said vessels, or to the owner thereof, or to the agent of either, on payment of all legal fees and demands for the same.

The commanders of ships of war and privateers, of the belligerant party, shall, in the searching of the merchant ships of the other party, conduct themselves according to the acknowledged principles and rules of the law of nations, and as favorably, moreover, as towards the most friendly power that may remain neuter. The said commanders, their officers, and crews, shall forbear doing any damage to the subjects or citizens of the other party, or committing any outrage against them, and if they act to the contrary they shall be punished, and shall also make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

(*d.*)

The ships of war and privateers of the two nations, as well as their prizes, shall be treated, in their respective ports, as those of the most favored nation.

It shall not be lawful for any power or state, at war with either of the high contracting parties, or the subjects or citizens of such power or state, to fit out, or arm, ships of war, or privateers, in the ports of the other of the high contracting parties, nor to sell what they may

take as prize from the ships or vessels of the high contracting party with whom such power or state may be at war, in the ports of the other, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that power or state to which they belong.

(*e.*)

In the event of a shipwreck happening to any vessel or vessels, belonging to either of the high contracting parties, or their subjects and citizens, on the coasts of the other, every assistance shall be given for the protection of the unfortunate persons, and for the preservation of the ship, cargo, and all effects which may be saved, either from on board the ship, or in any other manner whatever; and the same shall not be concealed, nor detained, nor damaged, under any pretext whatever. On the contrary, the same shall be preserved and restored to them, upon a suitable recompense being given to those who shall have assisted in saving their persons, vessels, or effects.

(*f.*)

If at any time a rupture should take place, (which God forbid) between his Britannic Majesty and the United States, neither the debts due from individuals of one of the two nations to individuals of the other, nor shares or moneys which they may have in the public funds, or in the public or private banks, shall be sequestered or confiscated; and the merchants and others of each of the two nations residing in the dominions of the other, shall in no case be detained as prisoners of war; but they shall be permitted to remove, with their families, effects, and property; each government having, nevertheless, the right, during their remaining in its dominions, to make such regulations, and to take such precautions, as it may deem necessary with respect to such persons.

Memorandum E.

Upon the subject of those articles numbered from *a* to *k*, which were brought forward by the American Plenipotentiaries, and annexed to the protocol of the third Conference, the British Plenipotentiaries stated, that, although they were not instructed to bring any of these topics before the conferences on the part of Great Britain, and although they considered it by no means necessary that the two countries should now come to any conventional arrangement relating to them, they were, nevertheless, ready to agree to the annexed articles, (*a*, *b*, *c*, *d*, *e*, *f*,) which embraced all the points upon which, in their judgment, it was expedient that the two countries should enter into positive stipulations.

Slaves.

ARTICLE.

Whereas it was agreed, by the first article of the treaty of Ghent, that "All territory, places, and possessions, whatsoever, taken by either party from the other, during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property, originally captured in the said forts or places, which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property:" And whereas, under the aforesaid article, the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all slaves who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions, whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, whether such slaves were, at the date aforesaid, on shore or on board any British vessels lying in waters within the territory or jurisdiction of the United States: And whereas differences have arisen whether, by the true intent and meaning of the aforesaid article of the treaty of Ghent, the United States are entitled to the restitution of, or full compensation for, all or any slaves, as above described: the high contracting parties do, hereby, agree to refer the said difference to some friendly sovereign or state, to be named for that purpose; and the high contracting parties further engage to consider the decision of such friendly sovereign or state, to be final and conclusive on all the matters referred.

No. 10.

Amendment to boundary line, proposed by American Plenipotentiaries at the Eighth Conference.

In lieu of latter part of the article insert:

"And it is agreed, that any such country as may be claimed by either party on the northwest coast of America, or on the continent of America westward of the Stoney Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of this treaty, to the vessels, citizens, and subjects of the two powers; it being well understood, that this agreement is not to be construed to the prejudice of any claim, which either of the two high contracting parties may have to any part of the last mentioned country; nor shall it be taken to affect the claims of any other power or state to any part of the said country—the only object of the two high contracting parties, in that respect, being to prevent disputes and differences amongst themselves."

No. 11.

Protocol of the Eighth Conference between the American and British Plenipotentiaries, held at Whitehall, on the 19th of October, 1818.

PRESENT—Mr. Gallatin,
Mr. Rush,
Mr. Robinson,
Mr. Goulburn.

The protocols of the two preceding Conferences were agreed to and signed.

The several articles upon the fisheries; the boundary; the territory westward of the Stoney Mountains; the captured slaves; and the renewal of the existing commercial convention, were agreed to.

The American Plenipotentiaries expressed their regret that the rejection of several of the amendments which they had offered to the projet on impressment, and which they deemed essential, compelled them to decline acceding to that projet.

The great alterations made by the British Plenipotentiaries to the articles proposed by the American Plenipotentiaries on maritime rights, also induced the latter to think, that, although a season of peace appeared the most favorable time for arranging such subjects, it would be inexpedient to discuss them any further, more especially as it had never been the intention of the American Plenipotentiaries to adopt, or propose, any articles upon maritime subjects, without an adjustment of that on impressment.

The British Plenipotentiaries brought forward an article, as annexed, (F,) upon the subject of the direct intercourse between the West Indies and the United States of America; but they stated that they could not consent to sign any article upon that subject, unless the American Plenipotentiaries were prepared at the same time to accede to articles which should put the intercourse between Bermuda and the United States, as well as between Nova Scotia and New Brunswick and the United States, upon the footing contemplated in the article originally offered by the British Government, with respect to Bermuda; and in that respecting Nova Scotia and New Brunswick, brought forward at a former conference by the British Plenipotentiaries.

The American Plenipotentiaries declared that their instructions did not authorize them to sign the West India article, as proposed by the British Plenipotentiaries, but agreed to take the whole question, ad referendum, to their Government.

It was agreed to meet on Friday, the 20th instant.

ALBERT GALLATIN,
RICHARD RUSH,
FREDERICK JOHN ROBINSON,
HENRY GOULBURN.

F.

It is agreed that the vessels of the United States shall have liberty to import from *[any of the ports of the United States to which

* The words within the brackets were not inserted, as is supposed by an accidental omission, in the copy handed in by the British Plenipotentiaries.

any foreign vessels are permitted to come, to] any of the ports of his Britannic Majesty's dominions in the West Indies, which shall be open to the vessels of any other foreign power or state, tobacco, pitch, tar, turpentine, staves, headings, shingles, horses, mules, poultry, live stock, and provisions of all sorts, except salted provisions, of any description, whether meat, fish, or butter, such articles being of the growth, produce, or manufacture, of the United States; and the said vessels shall also have liberty to import, in the same manner, any other articles of the growth, produce, or manufacture, of the United States, the importation of which into the above-mentioned ports shall not be entirely prohibited from every other foreign country or place.

The vessels of the United States shall likewise have liberty to export, from any of the aforesaid ports of his Britannic Majesty's dominions in the West Indies, to any of the aforesaid ports of the United States, rum, molasses, and salt, being of the growth, produce, or manufacture, of any of his Britannic Majesty's abovementioned dominions in the West Indies; and the said vessels shall also have liberty to export, in the same manner, any other articles of the said growth, produce, or manufacture, the exportation of which, in foreign vessels, from the said ports, to any other foreign country, or place, shall not be entirely prohibited.

British vessels shall in the same manner have liberty to import from any of the aforesaid ports of his Britannic Majesty's dominions, to any of the ports of the United States, rum, molasses, and salt, being of the growth, produce, or manufacture, of his Britannic Majesty's abovementioned dominions in the West Indies; and British vessels shall also have liberty to import, in the same manner, any other article of the said growth, produce, or manufacture, the exportation of which from the said dominions of his Britannic Majesty to the United States, shall be allowed, as aforesaid, in vessels of the United States.

British vessels shall likewise have liberty to export, from any of the aforesaid ports of the United States, to any of the aforesaid ports of his Britannic Majesty's dominions in the West Indies, tobacco, pitch, tar, turpentine, staves, headings, shingles, horses, mules, poultry, live stock, and provisions of all sorts, except salted provisions of any description, whether meat, fish, or butter, such articles being of the growth, produce, or manufacture, of the United States; and the said vessels shall also have liberty to export in the same manner, every other article, being the growth, produce, or manufacture, of the United States, the importation of which into the said British ports, from the said United States, shall be allowed in vessels of the United States.

The vessels of either of the two parties, employed in the trade provided for by this article, shall be admitted in the ports of the other, as above mentioned, without paying any other or higher duties, or charges, than those payable in the same ports by the vessels of such other party; and they shall have liberty, respectively, to touch, during the same voyage, at one or more of the abovemen-

tioned ports of the other party, for the purpose of disposing of their inward, and of taking on board their outward cargoes.

No other or higher duties shall be paid, on the importation into the United States, of any of the articles which may be imported therein, by virtue of this article, when imported in British vessels, than when imported in vessels of the United States; nor when imported directly from the above mentioned ports of His Britannic Majesty's dominions, than when imported in a circuitous manner. And no other or higher duties shall be paid on the importation, into any of the above-mentioned ports of His Britannic Majesty's dominions, of any of the articles which may be imported therein, by virtue of this article, when imported in vessels of the United States, than when imported in British vessels; nor when imported directly from the United States, than when imported in a circuitous manner. It is agreed, moreover, that no other or higher duties shall be charged upon any of the above mentioned articles, being of the growth, produce, or manufacture, of the two countries, respectively, when imported by virtue of this article, on the one hand, into the said ports of His Britannic Majesty's Dominions, or into the ports of the United States, on the other, than may be charged on similar articles when imported from any other foreign country; but His Britannic Majesty reserves to himself the right to impose higher duties upon all articles so allowed to be imported into the said British ports from the United States, than are, or may be chargeable, upon all similar articles, when imported from any of His Majesty's dominions: Provided, that in such case, such similar articles shall be of the growth, produce, or manufacture of His Majesty's possessions. The same duties shall be paid, and the same bounties shall be allowed, on the exportation of any articles, which may, by virtue of this article, be exported, either from the said ports of His Britannic Majesty's dominions, in the West Indies, to the United States, as from the United States to the above mentioned ports, whether such exportation shall be in vessels of the United States, or in British vessels

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No. 12.

Protocol of the ninth Conference between the American and British Plenipotentiaries, held at Whitehall, on the 20th of October, 1818.

Present—Mr. Gallatin,
Mr. Rush,
Mr. Robinson,
Mr. Goulburn.

The protocol of the preceding conference was agreed to and signed. The Plenipotentiaries then proceeded to sign the Convention.

ALBERT GALLATIN,
RICHARD RUSH,
FREDERICK JOHN ROBINSON,
HENRY GOULBURN.

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